

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

MARINE FISHERIES ADVISORY COMMITTEE MEETING

Washington, D.C.

Friday, May 10, 2013

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P R O C E E D I N G S

(8:32 a.m.)

MR. RIZZARDI: Good morning, everybody. Thanks for getting down here at 8:30 so we could get started. I'd like to thank everybody for coming out to the second day of our MAFAC meeting and I'm looking for our State's Advisors.

MS. LOVETT: They're not going to be here. David had to leave yesterday.

MR. RIZZARDI: Okay. All right. Then what we've got planned today is Mark and I have a few quick items that we're going to cover for the first half hour. We will resume the discussion on Seafood Sustainability Certification and then this afternoon we've got a little bit more discussion of both the ESA working group and of the Managing Fisheries 3 Conference.

I hope everybody had a pleasant evening last night. I know I had a great dinner with a whole bunch of you. And it's good to be back. I'm seeing the light at the end of the tunnel here and I'm hoping it's not a train, of course, but you know, it's my hope that over the course of the day we can, as usual, try to get some more products out. Especially at least a few recommendations on what came out of the Managing Fisheries 3 Conference

1 and really have a clear path forward from where we are
2 today to October to sort of wrap up both the certification
3 discussion and the ESA discussion. And that's a big part
4 of what we're going to be spending some time on for the
5 next half hour.

6 So, Mark, you've got a discussion on the outputs
7 and then help us do some of that planning.

8 **MAFAC Executive Director**

9 MR. HOLLIDAY: Thank you, Keith. Good morning,
10 everybody.

11 So, there are three things I want to cover this
12 morning. I wanted to go through an update on actions and
13 status of where we are from the October meeting based on
14 the report out of recommendations and findings from that.
15 I wanted to talk a little bit about upcoming meetings,
16 what's happened with respect to face-to-face and virtual
17 meetings and our plan for October. Have a short
18 discussion about that. And if you recall in the e-mail
19 leading up to this meeting when we sent out the agenda, we
20 wanted to ask the Subcommittee Chairs to think about their
21 plans for the summer, what kinds of conferences or what
22 kind of support they need from my staff so that we can do
23 some planning and make sure that we get coverage both from
24 scheduling teleconferences to doing advance work to

1 support the Subcommittees work. So, we trying to just get
2 a brief heads' up for the Subcommittees about what they
3 anticipate the workload would be.

4 I'm not going to propose to get that answer
5 during my presentation just a reminder that by the end of
6 the day, we want to try to make sure that we have that
7 information before we leave here. So, there may be things
8 coming up in our discussion about Managing Nation's
9 Fisheries 3 that could be put on an agenda but we're just
10 trying to manage workload and what your expectations are
11 from staff so that we can plan accordingly to support you.

12 **Status of Prior MAFAC Meeting Outputs**

13 MR. HOLLIDAY: So, I'm going to work first from
14 talking about action items and where we left off in
15 October on a number of our activities. These are in the
16 order in which they were in the Summary report which on
17 the MAFAC website. Recall that the Budget Subcommittee
18 had worked on developing priorities under different
19 scenarios as part of a set of advice to NOAA Fisheries.
20 And the three scenarios, we're looking at level funding in
21 future years, a 20 percent decrease in funding and
22 amusingly a 10 percent increase in funding.

23 We went through an exercise with spreadsheets.
24 Some of you may remember that and what set us off but we

1 used that tool to help us identify our priorities and the
2 output of that was to submit those results to NOAA
3 Fisheries' leadership in advance of the November
4 Leadership Council Meeting and to have information
5 available on priorities moving forward. And we did that.
6 We did provide that information. Those data points were
7 used in the formulation and the guidance that went forward
8 in producing the President's FY15 thinking, the FY15
9 budget, as well as some of the tough choices that are in
10 front of us for the future.

11 The feedback that we've gotten and this is a
12 link to one of the other products that we delivered after
13 the October meeting, which is the Vision 2020 2.0
14 document, it's looking at what are the future directions
15 for the Agency. What are these drivers, what are these
16 circumstances that will be affecting the success of
17 sustainability in the future? We made a commitment at the
18 time of submitting 20 -- we, the Committee, made a
19 commitment to go back and look at some of the budget
20 implications of those 20 or so different priorities that
21 were in that document and try to get some greater advice
22 to know about which of those are the most important.

23 In other words, in this flatter declining budget
24 environment, when we were formulating Vision 2020, it

1 wasn't as apparent that, you know which of these types of
2 scenarios we'd be facing in the future. So, I think one
3 of the charges back to the Budget Subcommittee, and I've
4 talked with Tony Chatwin, the Chair of the Budget and
5 Strategic Planning Subcommittee, on a number of occasions
6 about some work over the summer. Of taking 2020 and the
7 budget implications of 2020 and refining that advice from
8 the Committee so that it's not just here's wish list based
9 on unlimited resources about future drivers but from a
10 more pragmatic standpoint which of these priorities should
11 be tackled first or at what level of intensity.

12 So, that's where we stand on the submission of
13 the budget action item submitted take and then some future
14 actions that are still on the table with respect to the
15 visioning document.

16 The next item was seafood certification. We
17 spent a lot of time at the October meeting with our first
18 set of invited speakers. There are a number of different
19 activities. I think we're very much on track. We started
20 that discussion yesterday but as a reminder the
21 Subcommittee recommended that the working group look at
22 different certification mechanisms including first party
23 or second party use of the Seafood Inspection Program.
24 Tim Hanson spoke a little bit to that issue yesterday.

1 I think we don't have the full recommendations
2 formulated yet. That's part of what we're deliberating
3 here but that's on the table as one of those range of
4 options from do nothing other than what we're doing today
5 to a full front facing Eco-label and all of those options
6 in-between including this one that was the first
7 recommendation.

8 Continuing on from there, there was a
9 recommendation to develop, it says here verbiage for a
10 certification letter for both capture fisheries and
11 aquaculture operations. Spent considerable time talking
12 about what criteria we could use in that. Again, we've
13 used the resources of the Subcommittee, the NOAA staff
14 people on the working group to help craft those draft
15 letters. In fact, since that time we've formulated actual
16 letters for one of the fisheries on the Atlantic and
17 Garden State Seafood and the squid and butterfish
18 fisheries. So, in practice that's something that we've
19 been doing, we'll continue to do and refine that. We
20 haven't issued any of these for an aquaculture enterprise
21 yet but that's again part of our deliberations of the work
22 group.

23 The third recommendation that you asked to take
24 action on that the FishWatch Program be maintained and

1 expanded as part of the Seafood Certification Program, we
2 heard from Laurel yesterday the current status and what
3 the next generation of that's going to look like. So, I
4 think we're on track with moving forward on that
5 recommendation.

6 MAFAC recommended that a process be developed to
7 interview the target audience of seafood buyers or large
8 scale institutional Sodexo's, other major seafood buyers.
9 We've made, I think, significant progress on developing --
10 well, you've made significant progress on developing a
11 survey instrument, the types of questions that would be
12 answered, this questionnaire for a list of people to be
13 interviewed. And the proving ground for that was the
14 Boston Seafood Show. Keith reported on a little bit of
15 that experience yesterday and our next step in trying to
16 further get that feedback through surveys by MAFAC members
17 working with their contacts in the seafood buying industry
18 to capture that information back to MAFAC.

19 The next item talks about providing cost
20 estimates for various seafood certification scenarios.
21 This is important because when you are evaluating the
22 tradeoffs or the pros and cons, we need to know, again,
23 what the costs are and what the implication is for the
24 government, for the industry and for others. We still

1 haven't made much progress on that but again our terms of
2 reference extends through the October meeting. So, we're
3 six months into this terms of reference so we still have
4 an opportunity to refine these different scenarios and
5 then make sure that we can appropriately cost out the
6 different implications of that.

7 So, that's work yet to be done on seafood
8 certification. And we'll certainly advance that further
9 this morning as we continue that discussion.

10 Vision 2020, after the meeting actually, you
11 know, we discussed it. We approved it to go forward. We
12 made the final edits. We ran those past the Executive
13 Subcommittee. Finalized some key messages and talking
14 points, we produced handouts, one pagers, two page flyers
15 to accompany that. We transmitted the material to Dr.
16 Lubchenko before she left NOAA. The status of it now, we
17 had further ideas of briefing the Secretary of Commerce.
18 Right now we're in this transition period.

19 So, this we transmitted in December. We have
20 Acting Secretary of Commerce, we've had Acting Leadership
21 at NOAA and so we've been in sort of a holding pattern
22 waiting for the identity of who the permanent selectees
23 would be to brief them up rather than brief up the Acting
24 people. But we have the materials ready to go both the

1 report itself and additional handouts and flyers that
2 could be used to brief both NOAA leadership, Councils. We
3 talked about Hill briefings, Hill member of Hill staff
4 briefings. So, we have that material in hand waiting to
5 launch that.

6 The fourth item, and I know, Keith, you gave me
7 15 minutes so I'm going to try to keep going as fast as I
8 can here. ESA and jeopardy, the Protected Resources
9 Subcommittee working group, Julie's gone -- as Chair of
10 that group has been very active in managing and I think
11 it's made some great progress. It's on schedule. She's
12 done a great job on behalf of the Committee on managing
13 both the expectations of the working group members which
14 is very controversial. It concludes Councils, NOAA staff
15 people and MAFAC members on that working group.

16 Right now, she's presenting a midterm report on
17 that group to the Council Coordination Committee back at
18 the Mayflower Hotel on their progress. That terms of
19 reference also runs for another six months. They're on
20 schedule to deliver findings on the challenging questions
21 about improving the consultation process and the working
22 relationship on ESA issues between the Councils and NOAA
23 Fisheries Service. So, I think that's all in the next
24 steps that are listed in our report are on track or have

1 been completed. So, I think that's in very good shape.

2 The fifth and final item has to do with the
3 Recreational Fishery Subcommittee where the Committee had
4 some sort of major milestones to report on at the last
5 meeting with respect to updating regional input between
6 now and the next MAFAC meeting on significant issues,
7 recommendations regarding recreational fishing for the
8 future. In other words, what are the agendas, what are
9 the important issues? Since that time we've re-upped and
10 reinvigorated the Rec Fish working group which supports
11 the Subcommittee by appointing -- we're now back to a 21
12 full complement of members on that working group.

13 We've used them as the coordinating role to work
14 with Russ Dunn on these regional listening sessions that
15 he's been scheduling to try to capture this input about
16 priorities. And so, I think we've built a very strong
17 bridge between the constituency, the Subcommittee and they
18 in turn, the Working Group, bring them back to MAFAC for
19 action and deliberation. So, I think we've made some
20 strategic decisions about how to better incorporate that
21 intelligence and what the connections are between our NOAA
22 employees, our recreational coordinators in their field,
23 the Rec Fish working group members who are, again,
24 appointed as advisors to this Subcommittee of MAFAC and

1 the Subcommittee as an entity bringing those ideas back to
2 the full Committee.

3 So, that's the list of the action items and
4 recommendations from October and where we stand. If you
5 have any questions on that I'd be happy to clarify or
6 expand on that now or on a break at your pleasure.

7 **Discussion of Upcoming Meetings**

8 MR. HOLLIDAY: The second item that I was going
9 to report on, you heard yesterday and that issue is about
10 our next meeting and face-to-face meetings, federal
11 advisory committees and the prospect of potentially
12 reducing or eliminating face-to-face meetings and
13 substituting teleconferences, webinars or other entities.
14 Because of sequestration and also because of the
15 longstanding challenges we have to balancing our budget
16 and our resources with our mission, we've received
17 instructions from NOAA to minimize any travel as best we
18 can and to look at in particular our federal advisory
19 committees and seek the opportunities to have them meet
20 virtually versus face-to-face.

21 It's not an outright prohibition on face-to-face
22 meetings. The guidance is on an exception basis NOAA
23 leadership will evaluate whether or not the pros of
24 holding face-to-face meetings of a particular FACA

1 Committee outweigh the costs both from a financial side or
2 from a procedural side. So, our next meeting had been
3 planned for October of this coming calendar year which is
4 next fiscal year in government parlance. We'll still have
5 these controls in place next fiscal year. We'll still
6 have these procedures that will govern whether or not we
7 hold face-to-face meetings or hold virtual meetings but
8 there is a process for us to make the case to hold those
9 meetings, there's an option for us to seek that exception.

10 I think we have to be realistic about there's a
11 lot of competing uses for money in the budget but there's,
12 as Eric suggested yesterday, he was very, very much in
13 alignment with having MAFAC be seen as an integral part of
14 Managing Nations Fisheries 3 and we were part of the same
15 approval process that we went through to allow me, even as
16 a moderator, to come to this session. I mean everybody
17 from NOAA had to be approved on a list as a part of the
18 approval process.

19 So, I wanted to just give you the facts, sort of
20 the heads' up of where we stand and what the implications
21 are. I think we still need to plan, have a plan A and
22 have a plan B and that will impact what our workload will
23 look like and what form our next meeting would take. And
24 so, I wanted to put that on the table and perhaps during

1 the -- you know, by the end of the day when we talk about
2 the October meeting agenda, we can keep that in mind as
3 what's our face-to-face meeting prospect look like and
4 what our agenda would look like if we had to meet
5 virtually. Cause I think those would be two completely
6 different types of meetings.

7 **Summer Subcommittee Plans**

8 MR. HOLLIDAY: The last issue about the
9 Subcommittee and again it was just a heads' up to the
10 Subcommittee chairs that during that course of this
11 meeting we wanted to understand from the Ecosystem
12 Subcommittee or from the Rec Fish Subcommittee, the Budget
13 Strategic Planning Subcommittee, we know what the
14 different tasks that we have in front of us so far are.
15 We'll be supporting the Seafood Certification working
16 group. We'll be supporting the ESA working group but are
17 there other activities that we need to plan for to bring
18 staff capacity to help plan that out.

19 Summer's a very busy time for everybody. It's
20 much more difficult to get folks together. So, the sooner
21 we know about those requirements both for the members so
22 that they can block out time and we can schedule these
23 teleconferences or other devices the better. And I'd like
24 to use this time, sometime during the day, to have some

1 thought given to that and we can report out on that at the
2 end of the day.

3 So, are there any questions or comments on this
4 was basically what I was trying to cover this morning,
5 Keith. Julie?

6 **Public Comment Period**

7 MS. BONNEY: I had two questions. One was about
8 the certification process. You suggested the survey
9 process to the producers I guess in terms of what they can
10 sell. You said the MAFAC members were the ones that were
11 going to solicit people that they have contact to really
12 survey or is that something that your staff's going to do?
13 So, what I heard and what I was trying to -- if I need to
14 serve a role in that, I need to understand that I guess.
15 And so, I wanted to parse that out.

16 The other part in that committee workshop or I'm
17 looking at George here as the Chair, costs because
18 obviously if there's a potential that industry would pay
19 and so, there really would be a net sum gain of zero, so
20 how you develop a cost structure or understand the costs
21 would be interesting depending on the type of branding or
22 certification that you wanted to come up with. So, I just
23 was wondering how those pieces might move forward.

24 MR. HOLLIDAY: So, I'll take them in the reverse

1 order, the last question first. The cost considerations
2 is exactly as you describe. I mean there are costs for
3 different steps of a seafood certification program and so,
4 we need to know from the inception to the completion what
5 those different cost categories are. That's part of this.
6 That would be part of the cost evaluation.

7 The second component is well, who then pays for
8 them? Are those, some of those roles are perhaps paid for
9 by appropriate funds from the government. Some of those
10 are probably best funded from the industry. Some of
11 those, and again when I say industry then you have the
12 subcomponents. Is that on the process? Are those on the
13 buyers? Is it passed on to the consumers? And so, I
14 think we have different scenarios when you come to the
15 bottom line you have a total financial cost but you also
16 have the distribution of those costs. And so, both of
17 those pieces of information I think are essential for
18 MAFAC to evaluate as they make their final
19 recommendations.

20 And so, that's our intent to try to provide both
21 the nominal costs and the distribution of those costs.
22 And again, we're not intending to indicate a preference on
23 the staff's part it's just to say if you would do it this
24 way, this is how these costs could be calculated and this

1 is a scenario of how an industry may pick up some of
2 those. This is how appropriated funds might pick up some
3 of those. But the final choice set is up to the Committee
4 to decide.

5 On the first question maybe Keith and/or George
6 could talk about the execution of the data collection
7 effort or Bob. I mean, Bob took the yeoman's share of the
8 work in developing a survey instrument through Survey
9 Monkey to administer to this population of buyers. And
10 they could probably give you the more direct answer.

11 MR. RHEAULT: So, just to bring you up on where
12 we are on that, Keith and I interviewed about a dozen
13 people. Keith's going to do a few more face-to-face
14 interviews. We developed an online survey instrument.
15 Basically just over the last couple of weeks and I sent
16 that out to NFI and asked John Connolly to send that out
17 to his members. Yesterday I looked at the data collector.
18 One person had filled it out. So, it's really at the
19 inception of it. And what I'd like to do is send you all
20 the copy of the cover e-mail with the link to the survey.
21 And if you've got either buyers or potentially producers
22 who you think are interested in the process and would like
23 to weigh in on this, I encourage you to pass them the link
24 with the introductory e-mail verbiage that sort of

1 explains why we're here and why we're asking you to fill
2 in this brief survey so we can get some people to weigh in
3 out.

4 But so far, we seem to have gotten quite I'd say
5 a remarkable consensus on where we want to go with this
6 just based on the few interviews we've done. And at some
7 point we got to say, well, how much more data do we need
8 to drive the decision? I think we're very close to
9 defining what "it" is which will allow us to do the next
10 step which is do cost analysis.

11 So, I don't want to take up our time because I
12 think we're going to be talking about this more later but
13 I will send that out to Heidi and maybe she can pass the
14 link and the e-mail on to everybody. And then if you've
15 got connections that you'd like to share it with I see no
16 reason why not to proceed.

17 MR. RIZZARDI: Are there other questions for
18 Mark? Ted put your microphone on.

19 MR. AMES: Sorry about that. If you e-mail me
20 that website I'll distribute it amongst some fishermen in
21 Maine, some fishing organizations. I think there are a
22 few there that we might include with that.

23 MR. RIZZARDI: Other comments, questions? Is
24 there anybody here for public comment?

1 (No response.)

2 **Report from National Working Waterfronts &**

3 **Waterways Symposium**

4 MR. RIZZARDI: Okay. We did have substantial
5 public comment yesterday. Next item on the agenda is the
6 Working Waterfronts Report and Mark had mentioned summer
7 travel and conferences. And I had the privilege of going
8 out to Tacoma recently to participate in a panel
9 discussion on working waterfronts at the National Working
10 Waterfronts Networks Third Annual Conference.

11 And we had a good group of speakers put
12 together. And just getting the slide together, slide show
13 on?

14 MS. THOMPSON: Yes, I'm working on it.

15 MR. RIZZARDI: Okay, thank you. But one of the
16 things that really struck me about being out there and
17 then sitting through Managing our Nation's Fisheries 3 for
18 the last couple of days is how much overlap there was and
19 how much consensus there was amongst different groups
20 especially on what I kind of sense is the occasional
21 tension between National Standard 1 and the decisions on
22 optimum yield and maximum sustainable yield versus
23 National Standard 8 and the need to have sustainable
24 communities.

1 So, what I wanted to do is quickly brief you on
2 the basic gist of the discussion that took place out here.
3 And later today you will receive a document that reflects
4 the more detailed commentary that was given by the
5 different speakers. And what I'd like to do is have this
6 simply be part of what gets considered as you review the
7 Managing our Nation's Fisheries work and as we think about
8 what our long- term work efforts might be. And on that I
9 think maybe up for discussion is some recommendations
10 relating to National Standard 8.

11 But could I -- next slide, please?

12 MS. THOMPSON: It's next to you.

13 MR. RIZZARDI: Ah, excellent.

14 MS. THOMPSON: Actually, I'm sorry. I didn't
15 grab the USB.

16 MR. RIZZARDI: All right, so we had four
17 speakers. We had Linda Behnken from the Alaska
18 Longliner's, Sebastian Belle representing the aquaculture
19 interests, Jennifer from the NOAA restoration center who
20 talked about habitat and Johnny Williams from Galveston
21 who represented the voice of the recreational fishers.
22 And then I was presiding of course as the chairman of
23 MAFAC.

24 Next slide, please. Sorry, keep going. I

1 thought I had this on -- I'm just going to come up real
2 quick.

3 MS. THOMPSON: Okay. I think that should be
4 where you are.

5 MR. RIZZARDI: Yeah. So, one of the things I
6 did was I laid out the beginning, sort of the dynamics of
7 National Standard 1. Could you turn that microphone,
8 please? National Standard 1 because we had an audience of
9 working waterfronts people who come in with an economics
10 perspective, not necessarily a fishery perspective and
11 they're thinking why does our fishery have these
12 struggles? And kind of walked them through a little bit
13 of what OY was and how that process worked but then here's
14 the competing provision of National Standard 8.

15 And when you look at National Standard 8 it's
16 pretty clear that working waterfronts get a degree of
17 consideration under Magnuson. Take into account the
18 importance of the resource to the community, use the best
19 scientific information, make sure you have sustained
20 participation, minimize the adverse economic impacts. And
21 one of the things that's really struck me as I've dug into
22 this issue a little bit is on National Standard 1, as this
23 Committee knows, and we've worked on the issues and worked
24 on the guidance, and you know it's 28 pages of guidance.

1 National Standard 8 is two pages of guidance. So, there's
2 obviously a big difference in the approaches and maybe
3 there's an opportunity to be a little bit more specific in
4 the guidelines about what a National Standard 8 review
5 would look like. What would be considered?

6 So, what you heard in the panel discussion was
7 the commercial, the recreational, the aquaculture, and the
8 habitat perspective and we were exploring what are the big
9 challenges, what are the big concerns and what
10 recommendations can we come up with? And what came out of
11 that was voice of recreational fishing saying, look we're
12 a powerful force in the market economy but we're losing
13 access. We have concerns about inadequate data and we're
14 worrying especially about the rebuilding timeframes and
15 how they can shut down the recreational fishery.

16 The commercial fishing voice echoed some of
17 those concerns. Talked about the problems of regulations
18 that they experienced the need for better access and the
19 need for baseline data. So, a lot of those themes we've
20 all heard before and we certainly heard them for the last
21 of couple of days at Managing our Nation's Fisheries.
22 Sebastian Belle, for aquaculture, his presentation was
23 much like the Darden presentation that was given a couple
24 of days ago.

1 Talking about the demographics of food and how
2 aquaculture is going to have to be part of the solution
3 over the long-term. But noting how aquaculture can serve
4 as an alternative to the working waterfront. And when the
5 fishery is experiencing changes maybe aquaculture has the
6 opportunity to step in and provide local jobs and be part
7 of the community.

8 And then lastly, with the habitat perspective,
9 Jennifer Steger was talking about well, how more habitat
10 means more fish. And if you invest in habitat restoration
11 you can create a tool to enhance the fishery. And we
12 already have a habitat blueprint to help do that.

13 But through all of these presentations there
14 were some themes, the need for better data, the need for
15 methods and especially on socio-economic calculations.
16 There was a lot of dialogue about the federal family and
17 the role of the federal agencies. And of course, the need
18 for some NOAA outreach.

19 I did point out under Magnuson in National
20 Standard 1 there is a piece that evaluates how National
21 Standard 1 relates to the other National Standards. And
22 there's this one line about National Standard 8 that says,
23 well, 8's out there but your decisions must be principally
24 designed to prevent overfishing. So, in effect, National

1 Standard 1 comes first.

2 We've also talked a little bit about the
3 National Ocean Policy and how there's some overlap between
4 all these issues and the recommendations that are in the
5 National Ocean Policy. Many of the themes that I just
6 identified appear in the National Ocean Policy as well.
7 Outreach and education, for example, training and better
8 communication by NOAA, ecosystem based management came up
9 obviously in the National Ocean Policy. But again,
10 scientific information, the need for better data on
11 economic growth and the need for collaboration.

12 But here is one of the most interesting pieces
13 that came out of the dialogue was the recognition by
14 everybody that the regulatory system plays a big role in
15 this. And that maybe there was a way that NOAA could be
16 working better with some of the other federal agencies to
17 direct mitigation requirements. So that when you have
18 coastal issues taking place, when you have Army Corps
19 permitting that's involved and you have a 404 permit, you
20 have some mitigation, could some of that mitigation be
21 directed to the shore line area to the coastal habitat, to
22 enhancing the offshore habitat, to benefit the fishery and
23 thereby benefit the community as well.

24 So, there was the opportunity for some

1 interagency coordination. And that was one of the things
2 that was identified both by the panelists and by the
3 audience.

4 And lastly, the audience was very engaged in a
5 document called the working waterfront's toolkit. And
6 this document was funded by Sea Grant. It is a very
7 substantial multivolume set of recommendations. It covers
8 a lot of issues relating to the economics of the coastal
9 community. And it has specific methods and tools that
10 it's identified. And I looked at that document and said,
11 well, there are a lot of the principles in here that could
12 easily be fit into National Standard 8. They could fit
13 into the way we do our socioeconomic analysis.

14 And as we move forward with our discussions on
15 Managing Fisheries 3, I'd like you to take a look at the
16 working waterfronts' network, the working waterfronts'
17 toolkit and the proceedings that came out of this
18 conference and think about if MAFAC has the opportunity to
19 provide any guidance or direction on sustainable
20 communities and working waterfronts, how can all of this
21 work that's being done by this other group, the Working
22 Waterfronts' Network, also be taken into account.

23 And the last point was there was some hope that
24 all of this would over time lead to a NOAA policy. And

1 what precise shape that policy takes is up to you guys in
2 part, up to NOAA of course but there's this idea out there
3 that we keep hearing. The need for better socioeconomic
4 data, the need for better analysis and how can that happen
5 and does MAFAC support that and is that something that we
6 can make a recommendation to the Secretary on?

7 So, that's my report on my role in the
8 conference and thank you.

9 MR. HOLLIDAY: So, just there is a summary
10 report from the working waterfront that contains many of
11 these points. It's e-mailed out, just e-mailed out to the
12 Committee.

13 MR. RIZZARDI: Any questions on the Working
14 Waterfronts Program? Julie?

15 MS. BONNEY: I guess my question is any Council
16 action, everybody's always wanting better data. So, can
17 you define what better socioeconomic data means?

18 MR. RIZZARDI: I think that will be the
19 opportunity for us but in the working waterfronts' toolkit
20 there is a discussion of what kinds of values they wanted
21 to take into account and I'm not the economist. So, I'm
22 outside my area on that but there is already effort on
23 that very issue. And it's at least something that we
24 should look at and with the diversity of experience around

1 this table I'm hoping there are some people who can weigh
2 in as to yes or no it's something worth looking at.

3 MR. HOLLIDAY: Keith, as staff we can provide
4 copies of papers and other documentation of the types of
5 social and economic data that are being referenced here.
6 We'll follow up on that.

7 MR. RIZZARDI: Ken, did you have a hand up?

8 MR. FRANKE: No.

9 MR. RIZZARDI: Michelle?

10 MS. LONGO EDER: I just want to say thanks for
11 going. I think that this is an extremely important issue
12 to our fisheries as a whole and it's a developing area
13 nationally and this is extremely important. And I know
14 that to our communities on the West Coast and I'm sure
15 every place else, that we're really happy to see this as a
16 priority because whether it's infrastructure or
17 understanding the economic impacts along our coasts and
18 throughout the nation, this is very valuable. So, thank
19 you.

20 MR. RIZZARDI: Thanks, Michelle. Bob?

21 MR. RHEAULT: I'd like to echo that. But I'd
22 like to just still have a little bit of a discussion about
23 what sort of a NOAA policy might be envisioned and how we
24 might affect the future of this issue? Cause I agree it's

1 very important but I want to have a little bit of a better
2 idea of what, how NOAA can direct something. I'm very
3 vague on that aspect. Any ideas?

4 MR. RISENHOOVER: And if I can just kind of pile
5 on there with Bob, so you were talking about a NOAA policy
6 or NOAA guidance. Would that be some internal guidance
7 that would guide NOAA staff or are you envisioning larger,
8 such as National Standard 1 regulatory guidance that would
9 influence how the Councils do their work? So, part of
10 this is the scope. Is it going to be agency focused? And
11 I think is part of what Bob's getting at. Or is going to
12 be National in scope and Council focused as well? Or do
13 we know yet?

14 MR. RIZZARDI: I don't know yet. And I think
15 that's a question for this Committee. And I think it's
16 fair for us to think about that. Should it be revision of
17 the guidelines that are in the code of federal
18 regulations? Is it just an internal NOAA document? And
19 I'm open-minded about it. The only point I'm making is
20 that the fisheries world and the working waterfront world
21 are closely connected. The same issues keep coming up
22 over and over.

23 It was very interesting to me that the
24 conference the last couple of days was sort of a reunion

1 of the folks who were out in Tacoma. It was very much the
2 same folks and ran into a whole bunch of them even at the
3 NFWF Program because a lot of the folks who were at the
4 elite getting awards with that NFWF reception a couple of
5 nights ago were the same people who were in the Tacoma
6 program.

7 So, there's clearly a nexus. There's clearly a
8 lot of echoing of the same concepts over and over and the
9 need for clarity on socioeconomics and higher
10 consideration of the socioeconomics issue. And the issue
11 of the rebuilding timeframe, of course, keeps coming up
12 over and over and over. And I leave it to this Committee
13 and to the intelligence around this table as to exactly
14 what our recommendations would be and in what context we
15 would like them to be. But I think it's worth thinking
16 about.

17 MR. AMES: Yeah, Penobscot East Resource Center
18 has been working in this area virtually its entire
19 existence. We have 60 small fishing communities in
20 Eastern Maine and there are equally as many in the Western
21 part of the State. But this same pattern has occurred and
22 working waterfront is very much the central issue.

23 The bulk of the fishing activity from smaller
24 fishing communities lies within let's say 20 odd miles

1 from the mouth of the harbor. And that supports a rich
2 economic base of local production of seafood and
3 recreational fishing, et cetera, et cetera. And what we
4 have seen over time in my 30 years of fishing and then
5 another 15 years of looking at the research associated
6 with fish populations along the shore is that the scale of
7 fishing activity that's allowed close to these fishing
8 ports basically has eliminated all of those inshore
9 economic activities.

10 With no fish you get no recreational fishing,
11 you get no local seafood production, et cetera, et cetera.
12 So, we have gone from what was a very rich suite of
13 species for Gulf of Maine which is not particularly
14 diverse to start with, but with virtually all species in
15 place to now in the Eastern half of Maine which is about a
16 third of the entire coastal shelf of New England, we have
17 a crustacean dominated ecology. The fishing has been out
18 of sync with the scale of the productivity of the system.

19 In brief, there needs to be a constraint on the
20 scale of the fishing activity close to shore because
21 that's where the bulk of Gulf of Maine species reproduce
22 and that's where their nursery grounds are. I think it
23 has to be perhaps at a couple of levels. I think that
24 NOAA certainly has to engage in a solid position vis-à-vis

1 this and it's not to curtail or eliminate MSY which the
2 system is built around practically but to include the
3 characteristics of the ecosystem that has to support MSY
4 as well as the single species approach.

5 MR. RIZZARDI: Columbus and Dave.

6 MR. BROWN: Keith, I was intrigued by the
7 commentary relative to mitigation. And I was wondering to
8 what extent were there folks from habitat in attendance at
9 the meeting. And the reason why I ask the question is
10 it's been a longstanding practice under the Fish and
11 Wildlife Coordination Act between States, the Fish and
12 Wildlife Service, NMFS habitat people to utilize a tool
13 called mitigation banking when you have situations where
14 you can't take care of the losses where the impact
15 occurred.

16 And there are a number of significant examples
17 across the country where that technique has been used for
18 many years, well over a decade or two. And I just want to
19 make sure that if this is a problem it be brought into
20 light. But it might be also helpful for habitat to
21 further elucidate the extent that this is really a
22 problem.

23 MR. RIZZARDI: The folks from the NOAA
24 restoration staff were amongst the speakers. Jennifer

1 Steger was from the Pacific Northwest. So, NOAA's habitat
2 folks were directly engaged. I seem to recall some
3 discussion of an offshore mitigation bank that had
4 actually been done. So, the model exists. The point that
5 was being made though was as the Army Corps does its
6 permitting, is there the opportunity to have habitat
7 restoration be done offshore instead of another little
8 wetland onsite.

9 It was those kinds of analyses where sometimes
10 you're dealing with the onsite mitigation as opposed to
11 the offsite and the mitigation banking. But that's
12 getting us into the weeds and it's all part of the
13 dialogue I think would happen on this down the road.

14 Dave?

15 MR. WALLACE: I'm going to state the obvious.
16 If fishermen or groups of fishermen make significant
17 amounts of money then they can be a productive portion of
18 the community. And they can afford to have the
19 infrastructure necessary to provide it for themselves
20 versus having someone else provide it for them. And so,
21 we run into this problem especially with depleted
22 fisheries where there's not enough money to support the
23 entire fleet more or less the structures that it takes to
24 support them onshore.

1 And so, and how do you build the bridge between
2 now we're going to manage these fisheries well so that
3 they're going to come back, so that they're productive and
4 so we have a balance between the amount of effort that we
5 have versus the amount of fish that can be taken which
6 then should provide a profit for the fishermen to take
7 care of themselves. And we just need to stay focused on
8 that because what we have to do is rebuild the stocks
9 first. Thank you.

10 MR. RIZZARDI: Dave, I think your comment -- I'd
11 like to close with that and move on because it reflects
12 the bigger picture here. I mean all of these issues are
13 all tied together. The Managing Fisheries 3, the 56 page
14 slideshow that we worked our way through has this theme in
15 it over and over. The issues all work together and I
16 don't think we're going to solve anything today.

17 The point that I was hoping this Committee could
18 take away from this is as we look at Managing Fisheries
19 and we try to identify near term recommendations and
20 long-term parking lot issues that we want to tackle, the
21 issue of working waterfronts, National Standard 8 and the
22 recommendations that came out of Managing Fisheries seem
23 to all fit together and seem to be an issue that would be
24 appropriate for us to be tackling over the coming

1 meetings.

2 Is there any disagreement with that sentiment?

3 I mean that's all I was trying to do is like tee this one
4 up for future discussion.

5 MR. HOLLIDAY: So, I just wanted to -- this
6 reflects back to the Subcommittee and the workload. So,
7 at some point if the Committee's going to undertake this
8 somebody's going to be the champion for it.

9 MR. RIZZARDI: Right.

10 MR. HOLLIDAY: We'll assign it to a Subcommittee
11 and have some terms of reference for what would be the
12 next step. So, keep that in the back of your mind. I
13 mean as a general issue for general discussion I think
14 we've got enough to go on. It's where you want to go next
15 with this we may have to go into the infrastructure
16 question. Thank you.

17 MR. RIZZARDI: Is there anybody here who's
18 particularly interested in stepping up to a leadership
19 role and tackling the subject? All right, I'll let you
20 chew on it.

21 Okay, so Julie's not here for the ESA piece and
22 what I'd like to do is get back to the discussion on
23 seafood sustainability certification. And we left it
24 yesterday with sort of the opening thoughts and commentary

1 and I know there was a lot of dinner conversation, at
2 least at my end of the table but George, where would you
3 envision us going at this point?

4 MR. NARDI: Well, I think we did have a good
5 conversation yesterday and I think some things did begin
6 to distill down. I'd like to just not occupy a lot of
7 time right now but just try to first of all make sure
8 everyone around the table yesterday, or if they didn't get
9 a chance yesterday and you're feeling a little more
10 energetic this morning and you didn't get a question
11 answered, before I move on with maybe trying to summarize,
12 I would just like to open it up for any clarification if
13 somebody had a burning question. Paul?

14 MR. CLAMPITT: Yes, George, just a comment about
15 MSC certification or some information. I think our
16 fishery was the first on the Pacific Coast to be certified
17 by MSC, the halibut and sablefish fishery in Alaska. And
18 it cost the Fishing Vessel Owners Association \$70,000 to
19 get the first certification. And then five years later we
20 were charged another \$120,000.

21 But we got \$90,000 from Pew to defray the costs.
22 And we collect \$33,000 a year from processors to defray
23 the cost of certification cause they pay a -- they put a
24 logo on the side. For the branding they have to pay, I

1 think it's three cents a pound or something like that.

2 So, we get kicked back to \$33,000 and so at the end of the
3 day it worked out really good, I mean, for our fishery.

4 And then after this second certification, after five years
5 then they pay for it. You don't pay again. You just keep
6 collecting the \$33,000 a year.

7 So, it works pretty good. And the trick is you
8 have to be organized to get the upfront money to start it.
9 So, that's our experience.

10 MR. RIZZARDI: Liz?

11 MS. HAMILTON: I appreciate that, Paul. That
12 was one of the things that was in my mind yesterday. One
13 of the questions I wrote down was how does it pay back to
14 the community that gets certified. And the flip side of
15 that that I was wondering was the folks who would like
16 NOAA to do a certification program or a branding program,
17 is that going to give them the access to the markets that
18 you're getting from the MSC?

19 I mean, that's the question. Is that what
20 they're looking for is market access and if that's what
21 they want are they going to get it from NOAA, a NOAA
22 label?

23 MR. CLAMPITT: Well, I can tell you when this
24 thing first happened. I guess, I'm trying to remember how

1 many years it was. Well, it's been at least 10 years now.
2 We really got, it worked out really well because we'd go
3 in front of Congress and our Congress people and say,
4 look, we're green. See, we've got this certification and
5 it had a lot of cache.

6 But since then and you know Albertsons and they
7 wanted to put that little sticker out saying, listen this
8 is sustainable seafood and it worked out really well. But
9 then people started kind of pooh-poohing the MSC
10 certification. And that's kind of been more recently like
11 the deal with McDonald's. They came out and there was the
12 controversy about their Chinook salmon by-catch and people
13 started saying, well you know MSC's not all that, there's
14 some flaws here.

15 So, I don't know where that's going to lead but
16 the first 10 years was really good and now we're hearing
17 some kind of pushback. So --

18 MR. NARDI: A comment and then I think Bob
19 wanted to say something. But, Liz, the answer is most
20 emphatically yes. It is about market access. That's why,
21 in my opinion, we're even having this discussion. And a
22 lot of, you know, Paul was fortunate to get some
23 assistance from Pew and others and being in the lead took
24 advantage of that program. But that got Paul and his

1 colleagues' market access and that fishery was covered by
2 MSC.

3 There's a lot of other fisheries product species
4 that are not or processes. So, that's sort of what we're
5 trying to cover here and being driven by the market
6 process.

7 MR. RHEAULT: Yes and so, I mean, real quick
8 that's why we did the survey. We wanted to answer that
9 particular question was would this satisfy the buyer's
10 needs at least for domestic producers and primarily for
11 domestic sales. It's not going to answer the question for
12 European sales. There's still a role for MSC. We're not
13 trying to supplant them but we're trying to create a
14 vehicle and from the answers we've gotten to the survey so
15 far it seems the answer is generally yes. So, that was
16 key question. Yes. Will this get us market access cause
17 if it doesn't don't bother.

18 And so, I think we've gone a long way towards
19 answering that and I'm reasonably happy with the
20 responses.

21 MR. RIZZARDI: Ken?

22 MR. FRANKE: Thank you. Question. The small
23 aquaculture producers and the small business people that
24 are the startups, et cetera, financially how does this

1 impact them? I mean, it sounds like you either get
2 certified or you don't get access to the market at all.
3 So, is it cost effective? I mean, you know, a startup
4 struggling business, is this something that's going to
5 actually almost harm them unless they have enough money
6 upfront to go get certified?

7 MR. NARDI: I've definitely heard from some on
8 the primary producer side, whether it's aquaculture or
9 wild fishery, that the answer is yes. We heard from some
10 of them yesterday that they're supportive of a NOAA role,
11 a program that would give them the third party equivalency
12 or sustainability certification that would work for their
13 customers. And the assumption being that it would be a
14 reasonable, which is our exercise going forward now, and
15 we can get into this in a minute but probably fee for
16 service program as opposed to paying for an audit company
17 and kind of having you have to do this.

18 You know, this is -- they're running, yes it may
19 be a non-profit but we know most of us know how
20 non-profits work and they can be very successful and have
21 very large fees as well. So, the answer is yes, Ken. It
22 does keep some people out and the more that the buyers
23 have just said we want certification. We may not even say
24 which kind but we need something.

1 Pam and Patty?

2 MS. YOCHAM: I just wanted to give an example
3 from how certifications happen and sort of different
4 levels of certification for research facilities. We've
5 been talking about numbers and whether you register or are
6 licensed and things like that. And one of the things we
7 were talking about yesterday kind of offline is for
8 example under the Animal Welfare Act a research facility
9 can have a registration number. And that's a process that
10 you go through. You apply for that. The registration is
11 good for three years. You're inspected once or twice a
12 year.

13 And there is a way -- I sent Mark a bunch of
14 links for some websites if we want to share those with the
15 group. You can go to -- it's a little bit more
16 complicated under their system to find somebody who's
17 registered or not registered. But there's a website that
18 you can go to and find out if a facility is registered or
19 not and then the organization has a number that it can
20 cite on whatever document it needs to.

21 There's also a process for inspecting certain
22 types of facilities under a different USDA category. For
23 example, aquaculture facilities hatcheries can get a
24 registration number. And there again it's a different

1 process. In that case fees are charged and there's a
2 website that lists the user fees for those types of
3 inspections. And some of the working on that website
4 talks about the fact that, let's see if I can just call up
5 that text. Basically, the program has to pay for itself.

6 So, APHIS, the Animal Plant Health Inspection
7 Service is required to acquire full cost recovery for the
8 program through rate setting. And I can say in our case
9 of our little experimental research hatchery that we're
10 got, the cost was under \$100,000 for the inspection that
11 happens each year. Basically, you pay for their time
12 including their travel time. So, we are in San Diego.
13 Our inspector is in Los Angeles, so we have to pay for
14 that travel time plus the individual's time when they're
15 doing the inspection.

16 Then there's another level of sort of
17 certification, if you will, for facilities that receive
18 funding from the federal government. For example,
19 National Institutes of Health Funding or National Science
20 Foundation Funding, they're also required to have what's
21 called a letter of assurance on file with the federal
22 government. And that's another process that you go
23 through. Your letter of assurance is good usually for
24 four years I think it is. Again, there's annual reporting

1 costs and that website is a little bit more user friendly
2 in terms of being able to find, you know, we were talking
3 about on the FishWatch site could somebody go and see a
4 list of organizations that are registered?

5 And one of the web pages for the Office of
6 Laboratory Animal Welfare has domestic institutions with a
7 PHS approved animal welfare assurance. And then it lists
8 them by State so you can click on whatever State you want
9 and then get a list of those institutions. So, when we
10 are submitting a proposal for funding of we're submitting
11 an article for publication or other sorts of things where
12 people want to know that we're good actors in what we do,
13 we cite both that registration as a research facility
14 number and our letter of assurance number.

15 Then if you're a larger institution there's
16 another level of inspection or certification that you can
17 achieve that's more of a voluntary thing. And that is
18 much more involved. Usually only large like Universities
19 or biomedical research institutes would seek that level of
20 approval or authorization and that's a more involved
21 inspection. What that does, that's an organization that
22 provides services back to the people who are certified by
23 them in the form of, for example, training modules that
24 you can use with your staff and things like that.

1 So, there are a couple that are administered
2 basically by the federal government at either no cost or
3 low cost with the government recovering the cost through
4 these user fees and then this other one that is more of a
5 voluntary kind of a membership organization. I didn't
6 provide that link but I did provide a few example websites
7 if people want to take a look at them to send that
8 tomorrow. Thank you.

9 MR. NARDI: Thank you, Pam. Patty?

10 MS. DOERR: I just have a quick question. So,
11 based on just conversations that I've had with folks and
12 the comments yesterday it seems to me that the big hurdle
13 that's keeping some of the smaller guys from going through
14 MSC certification is cost. Are there any others that
15 you're aware of in your conversations at the Seafood Show
16 or is that the biggest? Is it really the costs that go
17 with the certification?

18 MR. NARDI: There are others but for example it
19 depends on what type of a producer you are. MSC is
20 certifying specific wild fisheries. They've recently
21 formed a sister organization focused on aquaculture and
22 aligning that with other certification entities that will
23 also do aquaculture.

24 But our industry, be it capture fishery,

1 aquaculture is so broad, so many different species that
2 it's very difficult. It's going to take a long time and
3 of course the attention is going to be focused on the
4 bigger players first and to capture the most return of
5 course for their efforts.

6 So, you aren't finding ready availability for --
7 it is more difficult for the smaller fisheries, smaller
8 operators to find a certification program that is
9 reasonable economically. You know, you either have to
10 join up, you've got to find somebody doing something
11 similar and that may or may not be possible. I mean you
12 even heard reference to it both MSC and Molly from GAA
13 talked about starting efforts to help smaller producers,
14 harvesters, you know, if they can maybe clump them
15 together because they still want to get the equivalent
16 return of the effort.

17 Sometimes that's possible. It sounds easy on
18 paper but in reality now you've got to start talking to
19 each other. Who's going to share what cost? What is
20 going to cost? And it will cost.

21 Ken?

22 MR. FRANKE: There we go. One additional
23 question. Okay, it sounds like the smaller companies even
24 though this is a voluntary program, not really voluntary.

1 You either get with a program or you don't get your
2 product bought, is that correct?

3 MR. NARDI: As a generalization, yes.

4 MR. FRANKE: So, follow-up question. We have a
5 number of experts here from aquaculture. And you know on
6 a global view how the entire industry operates. If the
7 purpose of this is to certify that people's, you know, the
8 vendor's documentation is appropriate and their practices
9 and procedures are appropriate, if you all had a pie in
10 the sky of what you would think would be the right thing
11 to do for everybody, do you all have a recommendation?

12 MR. NARDI: I appreciate you bringing that up,
13 Ken, because (A) I think I'd like to kind of maybe distill
14 down now what we've heard and I'd like the other, you
15 know, Bob, Pam and other people from the working group to
16 chime in on this. But I think after yesterday's
17 discussion, previous discussions, the recommendation I see
18 that would work as a step one which I think takes into
19 account the consideration of the cost, the economic
20 environment we're in is to use, again, the infrastructure
21 that we have before us in essence. And that's trying to
22 leverage what NOAA and Laurel's group has set up by
23 utilizing the FishWatch Program and that website.

24 I think it goes back to the basic tenet that if

1 we are permitted and given terms and conditions, for
2 example, and have BMPs if we're an aquaculture producer,
3 and if you're participating in a fishery and you have a
4 valid license in fishery and you're following the rules
5 and regulations of that fishery and again in reference to
6 domestic production and fishing then why should -- we
7 would like to ask NOAA to stand up and defend that and say
8 that if we're prosecuting that activity then we're doing
9 it in a sustainable manner. And therefore, could we
10 develop, what would the cost be of such a program to be
11 able to list our company, our fishery, however we choose
12 to define that in the next six months onto a portal of the
13 FishWatch website.

14 So, in essence, that serves as our third-party
15 verification to customers that yes X, Y, Z fishing company
16 is a member of good standing of the U.S. fishing
17 community. And there they are. That could be phase one.
18 Phase two as we heard from some people they would like to
19 -- you know that's the B to B. That's the business to
20 business step. If that person down the line, if
21 Albertson's or Kroger's or Stop N Shop want to have that
22 label for their consumer, that Eco-label, maybe that's
23 another phase down the program if we take it in steps or
24 we can look at the cost. You know, there's a cost to the

1 first step and then there's a cost to the next step
2 because that now is taking something and going out to the
3 public.

4 But we did hear that desire yesterday after the
5 meeting. A couple of people that spoke came up and they
6 said, you know, we really like what you guys are doing on
7 MAFAC with NOAA. We really want to encourage that. Let's
8 take it but they'd say, you know, but we'd really love
9 something on that box for the consumer. Or if they were
10 going to Europe with their product they want something.
11 But in the short-term that might be able to be addressed
12 by the website, by a follow-on letter if necessary that
13 they can use or are using that Mark referenced earlier.
14 But longwinded response, Ken, but I would throw that out
15 to the specifically to the working group as a
16 recommendation and I would invite comments on that because
17 I -- unless I was hearing wrong that's kind of what I've
18 been hearing and distilling since yesterday.

19 Ken? Mark?

20 MR. HOLLIDAY: This is just a clarification of
21 the scenario you proposed. For the aquaculture entities
22 you'd look to a third party's standard, these best
23 managing practices or best aquaculture practices, these
24 are outside standards that we would be endorsing. So,

1 that's what I'm not clear on when you said the BMP.

2 MR. NARDI: No.

3 MR. HOLLIDAY: I'll let you handle this, all
4 right.

5 MR. RHEAULT: So, I participated in the standard
6 setting process for the World Wildlife Fund for the
7 bivalve aquaculture dialogues and I've examined a lot of
8 the standards that have been established for some of the
9 other fisheries especially aquaculture producers in Asia
10 like the pangasius standard, the tilapia standard.

11 Frankly, if you're doing aquaculture and you're
12 permitted in the U.S., you're doing it even under tighter
13 controls and with less environmental impacts than some of
14 the standards that have been developed for these other
15 producers in Asia that are being certified by these third
16 parties. So, if you are doing under our laws and under
17 our permitted statutes you're not having long-term impacts
18 or significant impacts outside of your footprint.

19 And so, we can be reasonably confident that this
20 is a sustainable practice under our laws. So, if you are
21 just following our laws, U.S. State laws, you should get
22 the stamp. And I think that that's all we're asking is
23 certification that you're following U.S. law.

24 MR. NARDI: And Mark, let me also clarify. When

1 I mentioned some of -- like EPA, for example, in addition
2 to other permits that pile up we have one from EPA. And
3 part of that is I have to have my BMPs written out. I've
4 gotten, for my company, that demonstrate and describe how
5 I am following the regulations. So, they give me the
6 regulations in "governmentese" and then I convert that
7 into a BMP whether it's for my staff or for my company so
8 when the inspectors come I kind of have an SOP in essence
9 that we review. And that's part of the inspection.

10 But that's -- it's not really voluntary. But if
11 you're discharging or have a NPDES permit as part of your
12 process you, by law, have a BMP. So, and that's often
13 incorporated now into any kind of program just it's a good
14 thing to have. I don't disagree with it because we have
15 to have that. It makes it comfortable for our staff but
16 that's -- it's wasn't a third party. So, it would be part
17 of the regulation and part of the review process and I
18 think that's what we, as a working group, need to further
19 define over that six months in addition to cost, is what
20 do we mean? What gets you that ability to be listed on
21 the website?

22 The definition right now is missing but I think
23 the vision, I think we have a direction to go.

24 MR. HOLLIDAY: Right, thank you. And was it a

1 third party or was it some federal standard that was
2 subject to public debate and open -- that's the model that
3 we're trying to look at on the finfish, the wild finfish
4 side, the national standards as opposed to a third party
5 set. So, I was just seeking and I think you've done
6 exactly what I needed to know.

7 MR. NARDI: Pam?

8 MS. YOCHAM: A couple of things besides just
9 listing on the website and talking about what exactly this
10 means to get listed on the website. There's two other
11 things that I've heard from hearing back from the
12 questionnaires and from the comments that we received.
13 And of those would be some sort of a if it's not a stamp,
14 some sort of a number that like I gave the example of with
15 the U.S. Department of Agriculture or the Federal Office
16 of Animal Laboratory Animal Welfare, there's a number that
17 you can cite, two numbers or whatever that shows that
18 there's some sort of an official registration there. And
19 people could search on that number, things like that.

20 And then the other thing is this concept of the
21 brand and so what does it specifically mean? We're going
22 to have to come up with some language if we don't come up
23 with a word like prime or choice or whatever is easy to
24 evaluate beef. I think people are still asking for some

1 very succinct definition of what that means. Are you
2 sustainable? Are you a sustainable fishery under federal,
3 you know, is this a United States sustainable fishery? A
4 United States sustainable aquaculture operation? And then
5 a definition of what that means, abides by all applicable
6 federal law, something like that.

7 So, that's I think the other thing that was
8 requested was some sort of a brand that you can define
9 what that brand means.

10 MR. NARDI: Alan and then Ted.

11 MR. RISENHOOVER: There we go. So, George, it's
12 coming into focus for me now and just kind of one question
13 trying to not to jump to too much of the details but for
14 the way Bob described it, for aquaculture you would have
15 your state permits, your federal permits, your EPA,
16 whatever they are. So, would that be something that the
17 organization just provides to NOAA? Would NOAA then be
18 required to verify not only that yes in fact you had those
19 permits but yes in fact you're operating correctly under
20 them?

21 I mean that's part of what I'm concerned about
22 is and I think it's the series of the things you're
23 talking about. How detailed, what does it involve?
24 Whether it's kind of a self-reporting sort of thing or if

1 it has to be a verified, certified by the government?

2 MR. NARDI: Thanks, Alan. I'd take a stab at it
3 but I can hear Bob breathing down my neck so I'm going to
4 --

5 MR. RHEAULT: Well, in many cases for these
6 existing certification programs the first step is, are you
7 abiding by all laws? Sign here. I think we should keep
8 it as simple as possible.

9 MR. NARDI: And I was just going to add though
10 that I think some of that is also obviously the comfort
11 level and what NOAA feels they need to do to sign on to
12 that. I can't answer that part of it, legally.

13 MR. RISENHOOVER: Well, and I think a lot of
14 that is the purpose of what you're establishing this for.
15 What do they require? So, does the buyer or whoever's
16 going to be purchasing this or relying on that to stand
17 for something, what do they require?

18 Because I think there's a lot of programs out
19 there, you know, it's one thing for me to say in a public
20 meeting, sign my taxes. It's another that that may be
21 actually true until it's actually verified. And so, at
22 what point do the people that are wanting this standard do
23 they want verification as well or is it if Bob can fill
24 the form out, I review it at a cursory level but I don't

1 go back and check with the state to see if he's got the
2 actual permit. And then I don't go back to EPA who may
3 have inspected his thing and issued him a violation.

4 You know, how much verification? And I'm not
5 saying you have to decide on that now. I'm just saying
6 that's an issue. If I was relying on that standard, how
7 deep do they want that verified or certified by the
8 government? Because I think that not only increases costs
9 it also increases the involvement of NOAA in tracking
10 that.

11 MR. RHEAULT: Real quick, they just don't want
12 to get boycotted by Greenpeace. Whatever satisfies that
13 --

14 Mark?

15 MR. HOLLIDAY: So, following up on Alan's point,
16 this is analogous issue when we talked about certification
17 of Finfish at our previous MAFAC deliberations a few years
18 ago. If NOAA's to put some NOAA consumer facing label on
19 something then there's a responsibility -- you're shaking
20 your head. Let me finish my observation first.

21 MR. RHEAULT: I don't think we want to go to
22 labels.

23 MR. HOLLIDAY: Okay but the motion of Alan's
24 saying do we -- does NOAA have to verify that your permit

1 has been issued? Is it in good standing? Are we in the
2 inspection process? The next question is is the product
3 that you're in the marketplace, are we the ones
4 responsible for documenting that your product that you're
5 selling is a product of your's or is that traceability on
6 you or the other producers?

7 I'm just saying there's a list of these
8 questions that I think are naturally going to come out
9 that we're going to have to, as a Committee, to check off
10 and say no, that's not what we mean. We mean this because
11 that has a different cost implication, that has a
12 different legal implication and I'm just think -- as you
13 come up with these scenarios I'm trying to think of the
14 natural questions that we have to have answered. So, I'm
15 sorry, Bob, to get you nervous but --

16 MR. RHEAULT: No, that's fine.

17 MR. RISENHOOVER: And just to add to what Mark's
18 saying it's the same sort of concerns but my question I
19 think is the people you interviewed at the Boston Seafood
20 Show, what standard do they want that mark, seal, label,
21 whatever we call it, held to? Is it good enough for it to
22 be just self-reported? They want some limited
23 verification or do they want the full in-depth detail, I
24 have to audit detail.

1 So, I think it's very clear or you need to be
2 very clear upfront of what those people that you're trying
3 to please, what do they want? How, you know, is it enough
4 to say I fish in the summer flounder fishery in the U.S.?
5 Or do they want to make sure that NOAA checks and makes
6 sure you at least have a permit for that fishery?

7 Do they want us to check your historical
8 enforcement violations? Do they want us to test that fish
9 to actually make sure that's where it was caught? Some
10 sort of traceability on it as well?

11 MR. NARDI: I think you've asked a couple of
12 questions that go even in further depth but part of what
13 we're doing right now is gathering that information to
14 answer those questions. Over the next six months with the
15 survey, with what we've gotten so far, those are
16 particularly the highest concern I have that you raised is
17 what will it satisfy the buyer? Will it satisfy that
18 person?

19 And then the rest of it, the detail, we work out
20 as far as what's required to do that. So, that's the
21 process we're in. Keith and then Laurel had a comment.

22 MR. HOLLIDAY: Please use a microphone.

23 MS. BRYANT: I just wanted to say so with regard
24 to aqua -- oh I have to speak into the machine. So, with

1 regard to aquaculture, I'll leave my comments aside from
2 that because FishWatch again has pretty much been driven
3 by MSA. And in speaking with a lot of the large suppliers
4 and retailers the movement that's really occurring out
5 there in that world is more and more of them are going to
6 be requiring it's one of three things. It's either MSC
7 certified, it's in the Fishery Improvement Project or it
8 is in a responsibly managed fishery.

9 And I believe that's the opening that NOAA and
10 FishWatch can provide for wild capture. And I just wanted
11 to kind of scope this back down a little bit into that.
12 With regard to aquaculture I really can't comment cause
13 you guys have a lot of things that are already in motion
14 and out there. I think in regards to aquaculture it's
15 going to the BAP. It's going to be some of these other
16 things in GFSI. So, anyway, I just wanted to kind of
17 rescope that with regard to FishWatch.

18 MR. NARDI: Thank you, Laurel, because I think
19 one of those definitions we're concerned with was just
20 that, that responsibly managed is probably the route.
21 Whether it's wild capture or responsibly farmed, it's the
22 same thing.

23 The comment about whether it's, you know, who's
24 certifying it goes back to the earlier comments. They're

1 still focused, I mean eight years ago I approached GAA but
2 they only had shrimp. That was all they were doing. So,
3 I said okay I'll see you in a few years. And then it was
4 shrimp and catfish. So, it's still that conundrum of
5 we've got hundreds of species out there and right now you
6 can count the species they're working with on one hand.

7 So, that's where we are. So, I think still
8 there's room if there's room in NOAA for responsibly
9 farmed to be part of the FishWatch site. Keith?

10 MR. RIZZARDI: I think we've got a robust
11 discussion underway and I'm really pleased about it. I
12 want to make a couple of points. The first one is, I
13 think we've got a concept on the table and it's sort of a
14 merger of one, two and three. It's a little bit of a
15 letter. It's a little bit of expanding FishWatch. It's
16 maybe a registration number being included. We're sort of
17 lumping some of these concepts together.

18 And of course, the devil's always in the details
19 and we're going to have work our way through exactly how
20 this happens. I also want to point out this is not going
21 to solve everything and, Liz, your question and Alan's
22 question is also, not every buyer is going to be satisfied
23 by this. It is possible that there are some who will view
24 MSC as a higher standard and they're still going to demand

1 MSC.

2 And as I said when we started this discussion, I
3 think we need to recognize the limitations of what we can
4 accomplish. I think there's something to be said for
5 making a big first step and providing a defensible USA
6 brand and maybe in the grand scheme of the marketplace
7 it's viewed as the bronze standard whereas the MSC is
8 viewed as the gold standard. And it may also be that
9 whatever process NOAA's able to implement won't solve the
10 problem in all USA waters.

11 I mean I don't think we can come up with
12 something that's going to fix the problem in all the state
13 managed waters and in the tribal waters. I think it's
14 going to be tricky in some of those cases. So, I think we
15 need to recognize that whatever we put out there is a
16 partial solution. It's not necessarily a complete
17 solution.

18 And lastly, I think we still have to work our
19 way through the nature of the specific review that's going
20 to take place. What exactly is the seller of the seafood
21 product doing to submit to NOAA in return for the
22 privilege of being listed on the FishWatch website and
23 being registered? Are they going to provide evidence of
24 Magnuson compliance? Are they going to provide evidence

1 of Endangered Species Act and Marine Mammal Protection Act
2 compliance? Are we going to address USA labor laws or is
3 that on the side?

4 I mean there are a lot of ways that you could
5 come at this and a lot of things that you could put on
6 that checklist of I comply with the following USA laws.
7 And there's an easy way to do it and there's a more
8 complicated way to do it. The easy way to do it is sort
9 of self-attestation. I submit a document under penalty of
10 perjury that says I'm complying with all of the following
11 laws, check, check, check, check, check. Here's my
12 additional evidence that shows that I'm in compliance.
13 And that's sort of similar, I think, to what's happening
14 in the animal welfare side of the equation.

15 And in return for submission of those documents
16 which get reviewed by the agency there's a registration
17 and there is an agreement that this person or this company
18 is acting appropriately. We need to flesh our way through
19 those details and exactly which laws are on that checklist
20 and as I pointed out at the beginning the Clean Water Act
21 is a tricky one. And getting the appropriate evidence
22 from the Army Corps and the EPA in the case of aquaculture
23 needs to be discussed.

24 I do think this is a great path. I think that

1 it's promising and I think it's something that could be
2 done at less expense and without putting too great a
3 burden on NOAA and been done in a way that the receiver of
4 the benefit pays for the service. So, I think it can work
5 but I do think we need to work through more systematically
6 exactly what's on the list and exactly what gets
7 accomplished.

8 MR. NARDI: I think we'd all agree with that,
9 Keith. I think every one of us, though, that's producing
10 or harvesting fish somewhere in our file cabinets we
11 probably we have reams of the documents that would be
12 needed and numbers and dates and so forth that could be
13 submitted. So, I don't think -- the devil is in the
14 details in defining what is needed but I think we all have
15 what is needed if we're operating under the many laws that
16 we have to operate under. Julie?

17 MS. BONNEY: Well, I think I have two thoughts.
18 One is to have a fishery, a capture fishery; you have to
19 comply with ESA and the Marine Protected Act and within
20 the Magnuson standard. So, why would you have to submit
21 anything? Because the agency's allowing you to have a
22 take because you're complying with U.S. laws. So, I don't
23 see that the fishing industry would need to submit
24 anything because it's not happening if it's not within the

1 law.

2 So, the do loop that I see is the idea that you
3 could list every U.S. fishery on the FishWatch because
4 they all are compliant with the law, right? Or do you
5 need to apply to be on the website? I mean, cause there's
6 two different ways you could look at it. Is we are
7 managing our fisheries responsibly and these are all the
8 fisheries that are easily defined in terms of tribal --
9 there's going to have to be -- these are easy to capture.
10 These are international and transboundary. These are
11 state fisheries that are outside of the federal government
12 and so you get into this, well, these are easy and we can
13 post them all on the website. These are more difficult
14 and they're going to have to go through some other hopper
15 or it's just not possible.

16 Or the other approach is you just have people
17 apply. So, there isn't that filter it's just I, as a
18 producer, feel that this letter's going to help me. I'm
19 going to contact the agency, make sure that they are
20 willing to supply the letter and a registration number, if
21 that's where we go, and be put on the FishWatch and call
22 it good. Versus the other approach which is all fisheries
23 and decide which ones we can easily put and stamp. So --

24 MR. NARDI: Pam, Ted, Alan?

1 MS. YOCHER: This may be getting into the
2 minutia but I think one advantage of asking people to
3 apply is that you could then charge a fee. So, if NOAA
4 decides that it's going to take three hours of someone's
5 time to review an application and add that individual to
6 the website, then they can say \$100 an hour or whatever
7 your fee is, \$300 for being listed on the website. Again,
8 that's how USDA has handled it. They try to recover the
9 cost of the privilege of certifying you as legit under
10 U.S. laws.

11 MR. NARDI: Ted and Alan?

12 MR. AMES: Yeah, lobster fishery in Maine just
13 finished this process. Very expensive, had to do it
14 because part of the market for the fishery is European and
15 they insisted on certification. But resisted doing that
16 for a number of years.

17 My question is we're landing live product for
18 the most part and shipping it. But would you also include
19 the HACCP provisions that are currently in place where
20 seafood is part of that verification process?

21 MR. NARDI: I would think you could but I'd
22 defer. I'm not the best person to answer that question,
23 Ted, of that extent because you've jumped to the processor
24 or distributor. But I don't -- but it's part of the

1 traceability. You know, they have if they're packing and
2 processing that product and they're required to have a
3 HACCP plan then that's part of what's in your manila
4 folder in your file for listing.

5 MS. BONNEY: Just to follow up on that, I asked
6 Ray Riutta with ASMI that question in terms of whether you
7 needed to have a traceability for this kind of a program
8 and he went right to HACCP and said that for any producer
9 they have a HACCP program. So, that's their traceability.

10 MR. NARDI: Alan? And then Michelle.

11 MR. RISENHOOVER: Thanks. And so, as Julie
12 outlined that program right now I think that's fine. We
13 can do that. But will the people you're targeting accept
14 that? For example, I'll agree with you U.S. fisheries
15 best managed, they meet with all the applicable laws, all
16 of that. But again it's that second step. Do the people
17 you're trying to please with what you're designing here,
18 do they accept that on face value you have a permit for
19 the fishery? You're actually conducting the fishery with
20 the gear types and the seasons at the times?

21 And is that fish that you're telling them is in
22 that box, is that actually what it is? So, if they're
23 willing to accept that on face value, that works
24 perfectly. And I think that's some of the crux of the

1 problem here and I'm glad to hear you have a survey
2 designed to get at what does the buyer want. What are we
3 trying to solve here specifically? Because we can
4 certainly say U.S. fisheries are the best managed in the
5 world. Where we have a problem and where the buyer may
6 have a problem is I could say, for example, go out and
7 catch a Bluefin tuna this weekend, sell it. I don't have
8 a permit. I don't have any of the, you know, maybe I used
9 dynamite to catch it.

10 MR. HOLLIDAY: That's the only way you catch
11 fish, Alan.

12 MR. RISENHOOVER: I would say that's the most
13 effective way for me to catch fish. So, see that's what
14 I'm -- because the framework is the best in the world.
15 It's how people participate in that framework and what
16 that buyer, what the problem you're trying to solve here
17 wants to interact with that framework. Because I think
18 through FishWatch and the letters we've written so far, we
19 outline yes those federally managed fisheries comply with
20 all of this. It's that second part of is the person
21 that's got something in a box they're handing you actually
22 compliant with that.

23 And so, that's again where you need to go to
24 these buyers or the people we're trying to solve the

1 problem with and understand what degree they want to have
2 additional info.

3 MR. NARDI: Michelle and then Bob.

4 MS. LONGO EDER: I understand and agree about
5 the discussion as to what the buyers want and that's an
6 unanswered question yet. But I think that to me the
7 framework that is already set up relative to commercial
8 fisheries on FishWatch saying that it's a sustainably
9 managed fishery that we want to still keep it as simple as
10 possible. And I agree. It doesn't tell the buyer exactly
11 what's in that box or the distributor.

12 But I come back to I don't know if satisfying is
13 the right word but we're hearing a demand from commercial
14 fishermen all over the U.S. to want to communicate
15 directly to the consumer in some way. And I realize that
16 may not be the direction or the purpose of this program
17 but I still think it's a significant part. That a
18 fisherman can go out and say to somebody, this is a good
19 fishery when somebody asks them about what they do or
20 anything and they can say there's an app for it. And you
21 can go to FishWatch and someone just click on and go and
22 see, oh, this is how it's caught. This is how it's
23 regulated. This is where the capture is.

24 So, I see a huge value in that individual, that

1 fisherman to the consumer or the Shrimp Marketing
2 Association on the West Coast to be able to send out to
3 whomever that direct person-to-person consumer. So, I
4 still feel a very strong value in that and relative to
5 wild caught I'd like to keep it as simple as possible and
6 implement FishWatch as the mechanism. I agree, that's not
7 going to tell the buyer what's in that box that they get
8 that that is the method and everything but I don't want to
9 lose focus of the huge value I think there is in that
10 communication tool in just in communicating that it is a
11 sustainably managed fishery that you can believe in.

12 MR. RHEAULT: And quickly to the certification
13 traceback issue, some processors, dealers, suppliers are
14 going to have a relationship where they are selling
15 directly to the buyer that's requiring it and they may not
16 require significant traceback evidence. Because I am the
17 producer and you are Sysco and there's not a lot of steps
18 that need to be clarified. So, that's pretty
19 straightforward.

20 Some have made it very clear in the
21 conversations that we had up at the Boston Seafood Show
22 that if you don't have some sort of traceback involved
23 that this is not worth anything. And they will require
24 something along the lines of trace register. I don't

1 believe that we need to get down in the weeds on that. I
2 am a producer. I'm following the laws. I've got NOAA
3 certification and whatever traceback mechanisms that you
4 want, this is what we use or can provide to document the
5 source of the product. And I think that's going to vary.
6 I don't think NOAA needs to get involved in that. That's
7 the buyer to buyer relationship and what is needed by the
8 buyer will be supplied by the producer.

9 I think that's all I got to say, so --

10 MR. AMES: Yes, that really makes a lot of
11 sense. Couldn't you actually end up with a couple of
12 certifications where to certify as a dealer or a
13 distributor rather than a fisherman, would you not perhaps
14 include a passage or a phrase that said that the product
15 that he received was caught by the ground rules of the
16 fishery that he's in?

17 So, you would have a different permit that
18 simply facilitates, requires that they use sustainably
19 caught seafood in their distribution system. And then tag
20 the HACCP conditions on them, for example.

21 MR. NARDI: I think that that opens up in some
22 cases a can of worms if you're talking about a
23 distributor. If you're talking about a co-op, a
24 fishermen's co-op, it might be a little different because

1 then they're focused with a group of fishermen, co-op or
2 association for example. I would say yes. Specific
3 distributor or wholesaler, they're bringing in all kinds
4 of products from may be certified, may not be certified.
5 I don't think right now we're thinking about a mainline
6 distributor.

7 They're the people that are kind of asking for
8 it, in part whether they're going directly to the retail,
9 have their own retail or being demanded of it and want
10 traceability back to the source. Dave?

11 MR. WALLACE: The way I look at it is you're
12 certifying fishery by fishery, and if a dealer is selling
13 that particular fish and he makes -- and he complies with
14 all the laws and regulations then he would have to comply
15 with the HACCP plan also. The FDA would, that's an FDA
16 requirement. Then you're only certifying that dealer for
17 that one fishery.

18 And so, he could have a thousand other
19 non-certified things in that building but that fishery,
20 that particular fishery is certified. And he has to have
21 a HACCP plan which is enforced by the FDA.

22 MR. NARDI: Julie?

23 MS. BONNEY: I guess the only issue that I get a
24 little bit funky about is who's going to ask for the

1 letter? It could be Joe Schmo in Kodiak, Alaska that is
2 just a fisherman that wants a letter because he's going to
3 try to direct market his fish and he may fall out of any
4 kind of normal practices on the processing side. So, it
5 seems to me there has to be some kind of a filter who's in
6 the right category for application for a letter versus
7 just anybody. But I don't know how you would decide that.

8 MR. DOREMUS: So, having listened to this
9 conversation and staring at the options identified and
10 understanding that the next step does involve getting some
11 greater clarity on what would serve the interests of
12 basically the buying community, it seems to me that there
13 might be an option that isn't listed here that might be
14 worth considering. Maybe you already have and dismissed
15 it.

16 But short of, everything here either involves a
17 direct acknowledgement of an individual producer having
18 status in a U.S. fishery or it involves a certification of
19 a product or as the fifth one, it involves certifying
20 somebody else making one of those two determinations. One
21 other thing that might be the first step is for us to make
22 it very clear to the buying community what they would need
23 to see, what documentation would they need to see, what
24 evidence would they need to see to determine that a

1 producer is participating in a U.S. managed fishery.

2 So, we would set basically very clear, perhaps
3 through FishWatch or some other mechanism, set very clear
4 statement of what the requirements would be that anybody
5 should be able to provide. You indicated, well, we're
6 thinking through this we could probably supply the right
7 type of documentation. But if we specified what that is,
8 what proof would any producer need to show a buyer to be
9 able to satisfy their need to determine that this is a
10 product that came out of a federally managed fishery.

11 That might be a good point of entry, least cost, doesn't
12 get in the business of all the sorts of challenges that
13 I've heard identified here about both developing and then
14 maintaining lists of certified producers. And it might
15 satisfy the needs of the market at the same time.

16 So, I just, you know, looking at the options
17 here thought that that might be something worth
18 considering given all the factors that I've heard
19 discussed in the last couple of days.

20 MR. RIZZARDI: I just wanted to clarify on that.
21 So you're just saying direct B to B relationship and give
22 guidance on the direct B to B relationship without having
23 NOAA engaged?

24 MR. DOREMUS: Well, NOAA would be engaged to the

1 extent -- I think there's been a lot of very, I think,
2 great recognition of the need to perhaps be more vocal
3 about how it is that we're establishing and communicating
4 the sustainability of federally managed fisheries in the
5 marketplace. So, we would be involved to the extent of
6 that and then also really making it much more clear than
7 appears to be the case to date.

8 What any producer in a federally managed fishery
9 would need to do to document that they're operating under
10 a federally managed fishery. So, we would be involved but
11 only up to that point. It would keep us in the core
12 business of managing fisheries but it would leave it to
13 individual buyers to determine whether a producer actually
14 is participating in that fishery instead of us trying to
15 manage that relationship on their behalf.

16 MR. NARDI: My quick answer is no not at all.

17 MR. DOREMUS: No, not at all?

18 MR. NARDI: That would not work at all. That
19 would be the step -- because what you're saying is status
20 quo in essence.

21 MR. DOREMUS: No.

22 MR. NARDI: Yes, you are because the buyer, can
23 he go somewhere with what you just said independently, not
24 to me or Paul, and have somebody say they're participating

1 and abiding by all the rules? I can't do that. They
2 don't want me doing that. I already do that with them.
3 They say, we want you to be certified. We want you to be
4 listed. We want a letter from somebody. The buyers don't
5 want to have to do that with every -- that's what they're
6 getting away from.

7 You know, certification makes it very easy. Go
8 get certified then come back to me with your product.
9 From what I hear from you you're not saying that. You're
10 saying we'll give you all the information you need to give
11 to that buyer or what is it they need. For the most part,
12 they know what they need. They want certification.

13 MS. BRYANT: George, I think just to maybe
14 clarify I think what I'm hearing Paul say and where I
15 thought initially some of our initial discussions were
16 going, I don't think that's status quo because I don't
17 think we do that right now. I do not think that we have a
18 product that we supply fishermen acknowledging here's your
19 number. Kind of getting to what Michelle was getting that
20 you're part of a fishery. And I think that's what we're
21 saying because the letters that we've been requested so
22 far, which frankly is not a sustainable business model
23 over the long-term, to have every fisherman coming to Sam
24 Rauch, for me and Galen to have to be chugging these

1 things out.

2 It certainly takes my time away from FishWatch.
3 So, I think that's what Paul might have been getting to.
4 Cause we don't have that certification that a fisherman
5 has, yes I am officially part of the Northwest Ground Fish
6 Fishery and a legal participant. Here's my number or
7 letter. So, I just wanted to kind of clarify that's how
8 I've been looking at this.

9 MR. NARDI: Okay, what I thought I heard Paul
10 say was we would just clarify and find out what those
11 buyers want and be able to put that together. I didn't
12 think he wanted to write a letter for everybody.

13 MS. BRYANT: We don't.

14 MR. NARDI: So, wouldn't it be easier to be just
15 listed on FishWatch or some other vehicle that's much
16 simpler? Alan?

17 MR. RISENHOOVER: Right. And again, I think it
18 all goes back to the demands of the people you're trying
19 to please, right? So, we need to ground truth that. But
20 the simplest sort of certification I think would be that
21 some sort of list that -- so take Paul here as an example.
22 That he wants to have this basic type of certification is
23 that the agency could confirm that he has a permit to fish
24 for sablefish on the West Coast. Right? That's the

1 threshold thing and what that permit carries with it is
2 his agreement to comply by all the regulatory requirements
3 to participate in that fishery.

4 It does not then -- so, that's the threshold
5 that he's authorized to participate in that fishery. The
6 second step of that is still left open and that's what you
7 need to talk to your buyers about is can we prove that
8 he's abide -- and I'm sure he is, can we prove or certify
9 that he's abiding by all those regulations and things
10 associated with that fishery. But the initial thing is
11 just that simple. Do you have a permit to participate in
12 this fishery? And I think with the permit holder's
13 authorization that's something that's probably releasable
14 in IFQ programs. I think we release some of that anyway
15 now.

16 So, that's the initial thing is I'm a sablefish
17 fisherman. The agency confirms I have a sablefish permit
18 to participate in it. And is that enough to satisfy the
19 buyers or is there more to it.

20 MR. NARDI: Yes, I just, thank you, Alan.
21 Keith, I don't want to -- how much time do we have here?

22 MR. RIZZARDI: Not much.

23 MR. NARDI: Okay. All right. I know Bob asked
24 and then Michelle.

1 MR. RHEAULT: Just real quick. I mean none of
2 the other certifiers can do that either, Alan. So, it's
3 as good as you can get.

4 MR. NARDI: And that's the point. Michelle?

5 MS. LONGO EDER: In response to what Alan was
6 asking about and some of the other comments, I'm not
7 asking and I don't know who would want to, to have to have
8 NOAA say that this person here who's delivering their
9 sablefish has a federal permit. I don't need you to
10 verify that for me. I'm still more concerned just simply
11 about the status of the fishery and that NOAA says it's
12 sustainably managed.

13 And some of the reason for that is because as a
14 producer, I can't sell to any buyer already without -- I
15 have to have a federal fisheries permit. They are
16 required to record my number if I'm selling to any
17 processor. Anybody who buys my fish across the dock has
18 to have, with the exception of an individual purchaser,
19 processors all have to have fish permits. They have to
20 record. We have a hundred percent observer coverage or
21 not even when we don't have, we still have -- the buyers
22 have to request and record our federal fisheries permit.

23 So, I think in order to get a -- requiring
24 someone in order to get a certification to then report to

1 NOAA or proof, I think it's an extra layer that from my
2 perspective we're not really looking for. So, again, I
3 still go back to just the sustainably managed fishery,
4 that people can, you know, if they're in the store they
5 can look and verify. All of those requirements of me as a
6 producer are already in place administratively and
7 legally. I can't catch a fish, I can't sell a fish. A
8 processor or a wholesaler, a processor can't buy from me
9 without that information already in their possession. And
10 they can't distribute without their licenses.

11 So, with the exception of even if I came to the
12 dock with a hundred pounds of fish and not 40,000 and
13 wanted to sell off my boat, I still have to have a federal
14 permit and I still have to have a wholesale fish dealer's
15 license in order to do that. So, I already see the
16 regulatory process in place with all those checks and
17 balances. And I don't see -- Bob made my point there. I
18 don't want that additional level of regulatory
19 requirement. I just want people to know from NOAA that
20 the fishery is sustainably managed.

21 MR. NARDI: Well, thanks Michelle. And I would
22 just echo everything she just said also applies from an
23 aquaculture perspective because as soon as we come out of
24 the water and come to the dock, we're going to the same

1 distributor, the same processor. We need to have our
2 license number recorded and everything else. So, we all
3 sort of all become part of the seafood chain.

4 And that's what we're looking for. Going back
5 so someone can say, guess, what? Since Paul is our
6 example, there he is. He's listed on the form and that
7 may be enough. And you're right, Alan. We don't know if
8 it is enough. But that's the next six months I think I
9 would maybe have just one more question but then maybe we
10 can wrap it up. Because I think we've sort of through
11 this discussion defined what our workgroup needs to do
12 between now and October or the virtual meeting.

13 Pam?

14 MS. YOCHER: Yes, just real quickly. I think we
15 have heard from some people that what Michelle is
16 suggesting is actually not enough. That people want more
17 than your permit number. They want some other way to
18 access that this, you know, to get that sustainable piece
19 in there. Not just that you're legally operating but that
20 that means it's a sustainable operation. And so, I think
21 this questionnaire will help in terms of the scenario what
22 exactly they're requiring other than what they have right
23 now which is needing to see your permit.

24 MR. NARDI: Last one and then Mark will close it

1 up. That's it.

2 MR. WALLACE: Yes, I just wanted to say you
3 know, go back to what I said. We're certifying fisheries.
4 We're not certifying boat operators. They have to have a
5 permit but it's a deal, it's a business to business
6 transaction. It's the dealers to the distributors to the
7 retailers. And so, because otherwise we're going to try
8 to manage 50,000 fishing vessels and that's not going to
9 work and we shouldn't even consider it.

10 We just have to worry about the dealers.
11 They're all required to report. They're all required to
12 report electronically in the Federal Fishery. And so,
13 let's talk about the Federal Fisheries and so that we
14 already have all these mechanisms in place instead of
15 trying to invent the wheel. Thank you.

16 MR. NARDI: Mark? Keith? I think we're done.

17 MR. RIZZARDI: Okay. I think that was a robust
18 discussion and I think, George, you're going to have a
19 little bit more work over the summer. So, I'll look
20 forward to seeing what kind of draft product we can get
21 out and my hope is that at our October meeting, whether it
22 be in person or virtual, that will be when we bring this
23 to closer with a specific recommendation.

24 You know, I think it became pretty clear to me

1 sitting out there in Managing Fisheries that there's at
2 least a desire for us to do something. There's a lot of
3 people waiting and watching to see what MAFAC recommends.
4 So, thanks for all the work so far and I think you guys
5 have done a lot of labor and a lot of heavy lifting and
6 the issues are on the table.

7 So, Julie is back. She was off at the CCC
8 meeting for a little while. And the next item that we're
9 going to cover is the ESA working group. But what I'd
10 like to do is take the break that we're overdue for. And
11 Julie's agreed that she can get hers done in half an hour.
12 So, we can -- let's take a 15 minute break, come back at
13 20 of and we'll start up then.

14 MR. HOLLIDAY: The restrooms are out the door to
15 the right.

16 (Recess)

17 **ESA Working Group Update**

18 MR. RIZZARDI: All right, thanks for keeping
19 that break appropriately quick and next thing we're going
20 to tackle is the ESA working group update. Julie Morris
21 has been working with a group of folks including the other
22 fishery management councils. There's terms of reference
23 that have been fleshed out by NOAA and I can say, Julie,
24 I'm very pleased by where you are and I'm looking forward

1 to hearing your report to the Committee.

2 MS. MORRIS: Thank you, Keith. And also, Paul
3 and Pam and Columbus have been very active members of the
4 working group. And you want me to move down?

5 MR. HOLLIDAY: It was a little tight this
6 morning. I'm just trying to make people more comfortable,
7 that's all. So, if we could all move a little bit more to
8 the right now, we've got another seat opened up.

9 MS. MORRIS: And I want to recognize Asuka from
10 the Western Pacific Council Staff who's in the audience or
11 was earlier. Yes, she is. She's been very helpful in
12 support for Ed Ebisui and Jim Lynch. And I also want to
13 say really complimentary things about the NMFS members of
14 the working group. They've been very generous with their
15 time. Very open to ideas that are a little difficult and
16 provocative at times, they're very solution oriented and
17 so, I think they've been really very much responsible for
18 a lot of the progress that we're making.

19 So, this is a working group that was, I think it
20 was sort of the brainchild of Keith. He went to a CCC
21 meeting and they were expressing a lot of unhappiness
22 about the Council role in ESA consultations. And he
23 brought that back to MAFAC and we wrote a joint letter to
24 NMFS asking for a working group to be established. And

1 NMFS worked very hard internally to come up with terms of
2 reference that they thought would be a good pathway to
3 focusing on resolving this issue. And then we have that
4 webinar back in October that most of you were with us for
5 in which we looked at some case studies. We heard from
6 some of the top staff in NMFS about their perspective on
7 the issue and we were off and running.

8 So, we've had three conference call meetings of
9 the working group since then and one face-to-face meeting
10 just this Monday. The terms of reference require us or
11 lay out the expectation that we have a progress report
12 containing draft options after six months. So, that's the
13 moment that we're at right now. And we have, in our
14 meeting on Monday, we reviewed a very work in progress but
15 fresh and new to us, matrix that is both projected on the
16 screen and also if you go to the MAFAC website, in the
17 background materials for this meeting you can look at the
18 same thing on your personal computer while we're walking
19 through this.

20 So, what we'd like out of this discussion with
21 MAFAC now is some reaction and guidance to our progress
22 and the options that we've developed. And so, let me just
23 quickly summarize those for you before we have our
24 discussion to get your reactions. And we're going to take

1 your reactions and the next step is to develop the options
2 a little bit more, confer more with NOAA general counsel,
3 run some scenarios maybe from the case studies that we
4 looked at back at the webinar in October. Run those case
5 studies through some of these options and see what kind of
6 friction points, whether they would be helpful. Do that
7 kind of scenario analysis and then we have to by some
8 mechanism move from options to recommendations. And
9 that's what we'll be talking about in our either virtual
10 or face-to-face meeting in October will all of MAFAC.

11 Okay, so that's the big context. Very early in
12 our conference call deliberations and back in the webinar
13 we began to gel around the idea that early, informal
14 working together before a formal ESA consultation begins
15 has great benefits for a better defined Council role. And
16 that's because if the Council is not involved until the
17 preferred alternative has been chosen by the Council
18 process and the whole formal consultation begins, there's
19 a greater likelihood that the Council preferred
20 alternative may be something that leads to jeopardy. And
21 jeopardy would require RPAs reasonable and prudent
22 alternatives in order to mitigate that jeopardy.

23 And so, we want to avoid that situation. And
24 so, early consultation seems like it holds a lot of

1 possibly for that. So, either on your own screen or on
2 the big screen, we've come up with four options that could
3 help out with the early consultation.

4 Liz, are you okay? Can you find it on the MAFAC
5 meeting materials? You go to the MAFAC website and you
6 look at the May 2013 meeting materials and scroll down in
7 the agenda and they're linked there.

8 So, the team came up with four options for this
9 informal preformal consultation period and improving the
10 Council role in that. And the first is something that
11 happens in the Southeast Regional Office. They call it
12 the interdisciplinary plan teams and so protected
13 resources has a person who works in the development of the
14 FMP amendments right alongside the Council staff and the
15 sustainable fisheries staff in the Southeast. And it
16 seems to be working pretty well as a way to facilitate
17 those early conversations.

18 It does require a little extra work on PR's
19 part. They don't, in some of the other regions, they
20 don't have or they haven't chosen to have -- devote the
21 personnel hours to sit with the teams that are developing
22 the Fishery Management Plan Amendments and the NEPA
23 documents that accompany them. But it works pretty well
24 in the Southeast and so that could be replicated in other

1 regions and that would be a way to accomplish this early
2 informal role for the Councils.

3 And then scrolling down we've got two sort of
4 technical assistance options. One is not so formalized
5 and it would be just people would start communicating
6 early. There's a technical assistance part of the ESA
7 rules that describes this role. So, it would be
8 consistent with that. So, there could be a lot of
9 information exchange going on in that period under the
10 rubric of technical assistance.

11 And then there's a more formal technical
12 assistance role that's also prescribed by the ESA where
13 the roles and responsibilities and scheduled meetings
14 would be included between sustainable fisheries and the
15 Councils and protected resource. And definitive points of
16 contact would be defined for this formalized technical
17 assistance. And again, the con, the drawback on that is
18 that it would require additional staff and resources from
19 protected resources to accomplish that role.

20 And then fourth, there could be a designated
21 protected resource liaison for every Fishery Management
22 Plan. And so, they would participate throughout the MSA
23 process whenever there was an amendment going for that
24 plan they would be there. They would know everybody.

1 They could give real-time expert advice as the actions
2 were being developed and that would accomplish this early
3 communication role with the Council but again it's a time
4 intensive person-resource balancing thing. And a lot of
5 times what the amendments that the Councils are working
6 through don't really have a strong protected resources
7 element and so, it would be hard to justify it in those
8 situations.

9 So, the next group of options that we looked at
10 have to do with a more formal role for the Council once
11 the preferred action is identified and the formal
12 consultation begins, the formal Section 7 consultation
13 begins. And the first of those that we've listed as an
14 option would be to have the Councils designated as an
15 action agency.

16 Right now the sustainable fisheries folks are
17 the action agency because they're the group that actually
18 adopts the regulation that implements whatever the action
19 is that comes out of the Council process. And NMFS has
20 worked pretty hard to establish a legal precedence that if
21 somebody's going to sue over a Fisher Management Action
22 they can't sue the Councils cause the Councils aren't
23 really taking the action. They're not the action agency.

24 And that's been very protective of Councils to

1 be dismissed from those lawsuits. So, if the Council was
2 an action agency, they would have to go to Court. There
3 would be fees. They'd have to respond to discovery
4 requests. They'd have to produce documents. It would
5 take a lot of staff time and it would be a fresh burden.
6 And there's also some discussion among the legal folks
7 that NOAA GC couldn't both represent sustainable fisheries
8 and the Councils. So, the Councils would have to have
9 separate legal representation if they were designated as
10 an action agency in those kinds of litigations.

11 So, there's a lot of downsides to this. What
12 the Councils would get out of it is that they'd be right
13 in there with sustainable fisheries in the formal
14 consultation, direct communication with PR, direct
15 involvement of the draft biological opinion. So, there's
16 a big cost but also a very formal role gained by doing it.

17 And then the next thing that we've looked at in
18 the options is the Councils as an applicant. An applicant
19 is a status that has been used in the past for an effected
20 group of fishermen. I think this came up in our webinar
21 last October, the Hawaii Long Line Fishing Association, if
22 I have the right name was designated by sustainable
23 fisheries as an applicant in that formal consultation.

24 And applicants have, they're allowed to have

1 information provided to them. They can participate in the
2 development of reasonable and prudent actions. They can
3 review a draft, a biological opinion. They can provide
4 comments on that biological opinion back to sustainable
5 fisheries. If the time periods are extended they have to
6 concur on that.

7 So, what's better about being an applicant than
8 an action agency is that they're not subject to the same
9 litigation risks that I was describing with the action
10 agency. The sustainable fisheries is the decision-maker
11 whether a party becomes an applicant or not and in the
12 past the sustainable fisheries has, I think there's a
13 legal theory or policy developing in NMFS that Councils
14 don't really fit the definition of applicant.

15 There's an issue that affects both action agency
16 and applicant status which is the confidentiality of the
17 draft biological opinion. And there's this thing called
18 waiver of privilege as soon as the draft biological
19 opinion becomes public, which it would be as soon as it
20 was discussed in a public meeting by the Council. Then it
21 no longer has the protection of kind of the internal
22 conversation between protected resources and sustainable
23 fisheries.

24 So, any kind of disagreements about where

1 jeopardy is become public at that point and if people
2 wanted to make the case that an initial determination of
3 jeopardy was then walked back to a no jeopardy
4 determination, they could make the case that that was a
5 political decision, not a biological decision. And so,
6 that puts the integrity of the decision at some risk. And
7 then as Columbus pointed out there's some risk that before
8 kind of jeopardy protections are put in place, fishermen
9 could go and really hammer the protected resource.
10 There's some vulnerability for the protected resource in
11 that period when the action is being developed and before
12 there's actual, the consultation is over.

13 So, that's a problem with Councils as action
14 agencies. That's a problem with Councils as applicants.
15 And then the next option we looked at was Councils being
16 designated as non-federal representatives. A federal
17 agency is allowed to designate its representative to
18 conduct informal consultation and help prepare the
19 biological assessment. So, this goes back a little bit to
20 the early consultation. This is something that happens
21 prior to the development of the EIS, the draft EIS.

22 Again, Councils as non-federal representatives
23 would not be subject to litigation, so that's a good
24 thing. They could work directly with protected resource

1 in the informal consultation period. The problem, the
2 downside is that it might add additional time to the
3 consultation process. There are some concerns that both
4 NMFS and Fish and Wildlife Service would have about, if
5 the Councils could be non-federal representative, there's
6 lots of other entities that are involved in ESA across the
7 federal government who might also want to use that as
8 leverage or an argument for them to be non-federal
9 representatives. And we kind of don't know how far those
10 ripples would spread and how problematic that would be.

11 Again, the waiver of privilege problem would
12 happen if Councils were non-federal representatives.
13 Maybe not. Did I have that wrong? No, they might not.
14 I'm getting lost in my own matrix. Sorry.

15 And then, number eight, is an option where
16 sustainable fisheries would just decide that they wanted
17 to share the draft biological opinion with the Council.
18 And without having them be action agencies or non-federal
19 representatives or applicants. They would just say, we
20 think it's important to get Council expertise and review
21 of this and they would just take it. And they can do
22 that.

23 And again, this would occur late in the process.
24 It would be after the Councils had already chosen a

1 preferred alternative. So, any feedback from the Council
2 on the biological opinion would also be late in the
3 process. And the later it comes in the process, the more
4 you're at loggerheads, the harder it is to accommodate
5 that commentary from the Councils.

6 This would affect the waiver of privilege like
7 the earlier formal roles would. And then kind of after
8 developing those eight options, the ninth option is a more
9 flexible mechanism where a memorandum of understanding
10 would be worked out between Sustainable Fisheries and a
11 Council and it would cover a particular Fishery Management
12 Plan and it would describe how the Council role would be
13 incorporated into both the informal and formal
14 consultations for that particular Fishery Management Plan.

15 This option developed kind of late in the
16 thinking. What is great about is that it would
17 accommodate the flexibility of how things are done in
18 different regions with different Councils. It could be
19 individually tailored to a particular FMP. It would
20 recognize the role of the Council under the MSA. But it's
21 kind of untested. So, we don't really know what kind of
22 hurdles, I mean it's the idea that looks really good right
23 now but it's so new that we haven't really identified how
24 it would be problematic. We haven't been as creative in

1 thinking about how it would be problematic as we have been
2 with the other options.

3 So, those are the nine options that we've
4 identified about the Council in the ESA consultation. So
5 we could pause and talk about CCC reaction to those now.
6 But then there's a couple of other things that we're
7 working on that also need to be presented to you. So,
8 should I go back into do the whole talking head thing now
9 and then you can respond to all of it or do you want to
10 break and talk about these options now?

11 MR. RIZZARDI: I guess I'm curious. How many
12 MAFAC members are inclined to be commenting at length on
13 the matrix?

14 MS. MORRIS: The options.

15 MR. RIZZARDI: On these options. Just a showing
16 of hands, I mean that's all.

17 MS. HAMILTON: I have some questions but I think
18 I can listen and get to them.

19 MR. RIZZARDI: I'm just thinking if it's quick
20 we can just get it and move -- get the CCC and move on.
21 Yes. Go ahead. There are only two questions.

22 MS. HAMILTON: So, you had a lot of cooperation
23 with NOAA staff on all this and of course the thing that's
24 in my mind is biological opinions and lawsuits and I mean

1 it gobbles up a tremendous amount of NOAA's time. So, are
2 you free to share with us the approach that they thought
3 would solve the problems that you're looking at or?

4 MS. MORRIS: Well, so the subgroup of the
5 working group, so we have a working group and then we have
6 a subgroup that's been focusing on sort of taking
7 everything that we've talked about putting it into this
8 matrix. That includes someone from sustainable fisheries
9 and someone from protected resources and someone from the
10 Western Pacific Council. And they're advised and
11 supported by Pamela Lawrence from the General Counsel's
12 Office.

13 So, they have had a lot of intense conversations
14 and then a lot of going back and consulting with their
15 entities about all of this. And I think I lost the real
16 point of your question. So, could you say it again?

17 MS. HAMILTON: Well, just that to -- yes, was
18 there one that NOAA thought was most workable and given
19 the sidebars time and financial resources?

20 MS. MORRIS: My sense from the conversation that
21 we had in our Monday meeting was that they liked the
22 overarching MOU approach and its flexibility. Because it
23 would allow aspects of the other options to be drawn into
24 an understanding about the Council role for a particular

1 Council and a particular Fishery Management Plan. And
2 they like that. And it's, I think the more informal
3 things that avoid the action agency and applicant problems
4 and non- federal representative problems were attractive
5 to them.

6 MR. RIZZARDI: What did CCC like?

7 MS. MORRIS: Mark, did you want to say?

8 MR. HOLLIDAY: No, I thought you had another
9 question from Columbus.

10 MR. BROWN: No, we just got this and so, we're
11 also going to take another look at it and add some
12 additional comments to it. We really haven't had a chance
13 to totally digest the matrix and some of its offering.
14 So, the members of the Committee are going to be providing
15 some other substantial comments to it.

16 I personally had some questions in two areas.
17 One of them is authority and the other one is the sticky
18 question of once you get into a situation where there's a
19 legal situation, then the Department of Justice really
20 becomes the holder of peace rather than the General
21 Counsel or the Solicitor and Interior or Commerce.

22 MR. CORBIN: I just wanted to ask is the intent
23 to select or to have a recommendation from the early
24 consultation and then a recommendation from after the

1 biological opinion has been decided on for -- to
2 facilitate Council involvement and so you're really at two
3 recommendations?

4 MS. MORRIS: I think we'll be looking at more
5 than two recommendations but it could be that if we
6 coalesce around this MOU option that could address both
7 the early and the late in one mechanism.

8 MR. RIZZARDI: Did anybody else? I just want to
9 make an observation on this Julie that you started this
10 process with sort of the Councils complaining about a
11 black box and that the biological opinion sort of went
12 over to NOAA and they didn't know and they didn't have a
13 role. And all of these options represent a significant
14 shift so I think it's great that you've got this on the
15 table. You've gone from black box mentality to dialogue.

16 So, if we can get there that's terrific. And
17 looking at these different tables and the different
18 priorities, my one observation on the MOU it seems to me,
19 one of the critiques is it's untested and it's kind of
20 unique. I'd also point out the Council process is kind of
21 unique itself. So, I'm not as concerned about the
22 precedential implications of the MOU given the unique
23 statutory structure that they're dealing with.

24 So, I think the options are great and I think

1 you've done a good job. And I'm just curious where CCC
2 is.

3 MS. MORRIS: Okay, so Heidi and Asuka were both
4 in the room when we were talking with them. So, if I get
5 something wrong let me know. The first responder in the
6 CCC discussion was Sam and he wanted us to focus a little
7 bit more on the process that unfolds when we have to come
8 up with RPAs and to find the role of the Council in the
9 RPA process.

10 So, an RPA is when there is jeopardy and you
11 have to come up with Fishery Management Actions that
12 mitigate that jeopardy. And so, he was hoping that the
13 working group could focus a little bit more on the Council
14 role in that.

15 And then the other thing that he commented on
16 was that these options work when you have a lot of time
17 but you don't always have a lot of time. In fact, often,
18 maybe in the majority of the cases you don't have a lot of
19 time to deal with the protected resource timelines. We
20 have to act quickly and you don't want to put the fishery
21 in jeopardy. I mean, there's the jeopardy of the resource
22 but there's also the jeopardy of the fishery.

23 And so, he was hoping the working group could
24 come up with some options or mechanisms where you could do

1 an interim action quickly and then have a more
2 deliberative Council process that followed on and kind of
3 dealt with all the nuances and came up with a more
4 longstanding action.

5 And then Chris Oliver thought that he likes the
6 MOU approach. He sees potential there but he has some
7 concerns about how do you figure out -- is the MOU between
8 sustainable fisheries and the Council? Is it between NMFS
9 and the Council? Is it between, how does protected
10 resources? So, he's kind of thinking structurally who are
11 all the parties to the MOU and who has -- what are all the
12 roles? And so, he sort of likes that and is going beyond
13 that to how do you work out all the details.

14 And he posed the question about whether this is
15 more of a policy issue or a timing issue. I think Sam
16 responded that he thinks it's in the policy realm more
17 than the timing realm. And Kitty was very happy with the
18 process and how it's unfolding. And she thinks that the
19 MOU is a good vehicle to pull in elements from the other
20 options that are appropriate for a particular fishery and
21 a particular region. So, I would say the response was
22 helpful and positive.

23 MS. YOCHAM: Did anybody think that any of the
24 things on this table were so objectionable that they

1 should be stricken or any options that shouldn't be
2 considered further? Was there any discussion like that or
3 I would be interested to know if the Committee has seen
4 anything like that as well.

5 MS. MORRIS: Not from the CCC discussion. I
6 mean you can tell from the analysis that I think the
7 General Counsel has great concerns about action agency and
8 applicant and non-federal representative. But nobody told
9 us to not set them aside as options. That would be the
10 work, I think, of the working group as we work through the
11 summer. But I would be happy to hear from this group
12 about in response to Pam's question.

13 MS. HAMILTON: Was there any response from
14 Pacific Counsel or any questions or -- I'm just thinking
15 it's different than -- because a lot of the limiting
16 factors are not fishery related really. And in the
17 biological opinion where there are litigants, different
18 members of the Council are on different sides of the same
19 lawsuit. So, I was trying to work through how that looks
20 in sharing draft biological opinions in a room of folks
21 who are on opposite sides of the Courtroom on the same
22 case.

23 MR. RIZZARDI: Or future cases.

24 MS. HAMILTON: Or future cases.

1 MR. RIZZARDI: I'd just point out that's sort of
2 an unavoidable dynamic. It's policy formulation, it's
3 decision formulation. You're going to have some degree of
4 exposure to that and at the end you hope you come out with
5 a decision that's going to be defensible after it's vetted
6 all the issues. And it just strikes me that the dialogue
7 at least gets all the issues on the table, allows the
8 agency to build a good record and to make an informed
9 decision, which at the end is what they need to do to
10 prevail when DOJ eventually takes the case and has to
11 defend it.

12 Alan?

13 MR. RISENHOOVER: So, I think just a couple of
14 comments and the main one is this is great. So, Julie and
15 Keith, I'm glad this is going. It's progressing. I know
16 our folks internally are really excited about this. Part
17 of where it comes down to me is, you know, under the ESA
18 it's a Section 7 consultation. It's not a Section 7 black
19 box.

20 And I don't think we were ever at that black box
21 but that was the perception. And so, this gets away from
22 that. And what I keep talking to staff internally about
23 is we got to think, you've got to keep the ends in mind
24 here. Don't get caught up on the pros, the cons. Keep

1 the ends in mind because we all want the same thing at the
2 end. We want the fishery to continue and we want that
3 fishery to continue so there's protections for those
4 species that need it.

5 So, we've got to keep that in mind and what's
6 the best way to get there and it's often this discussion
7 and more an iterative process instead of the action
8 agency, whether it's SF or it's Bureau of Rec or it's the
9 Corps of Engineers, gives you biological assessment that
10 we had no part in developing. And they hand it off to us
11 and we do a consultation that has no part of them in it.

12 And so, to try and blur a little bit of those
13 lines not because you're -- and get too wrapped up, we're
14 worried in litigation or we're worried what the outcome
15 is, but you get to a better outcome. And a lot of this is
16 that upfront discussion with folks and so, I'm still
17 learning some of the ESA terminology but they're talking
18 about preconsultations, technical assistance up front.
19 So, the better the information we get from the action
20 agency, the Corps, the Councils, however we define that,
21 the better we understand that the better they know what
22 some of the bars and characteristics that we need in that
23 final outcome, the better they can define their action
24 around those. And I think it just naturally lends to

1 better decision-making.

2 So, that's all positive. The downside of it is
3 that upfront part of it. How do you get people in the
4 room upfront just when the ideas are coming together and
5 there's maybe not quite a preferred alternative on the
6 table yet. But how do you get people talking about that.
7 So, in the past under our broader operational guidelines
8 for the Council, we had really tried to frontload things.
9 And we had talked about, in the past, that they put
10 together teams at the Council levels that have a GC person
11 on it, a protected resources person on it in addition to
12 the industry and the constituent groups and SF to talk
13 those things through.

14 And that had dollar signs associated with it.
15 But it may be one of those things we can't afford not to
16 do. So, as part of this recent Office of Inspector
17 General report on the Council process and regulatory
18 process and if Mark hasn't shared that or you're not aware
19 of it we can get that to you. One of the recommendations
20 was that we need to institute some draft operational
21 guidelines for the Councils we proposed in 2005 but never
22 finalized. And the reason we didn't finalize those were a
23 lot of these concerns of do we have the protected
24 resources staff to work upfront? Do we have the General

1 Counsel to work upfront on these groups?

2 So, we're going to be starting about a two year
3 process with the Councils on looking at those operational
4 guidelines again. Because it's time we need to do it.
5 It's the right thing. And so, I see some elements of
6 this. It doesn't only apply to Section 7 consultations;
7 it applies to good decision-making at the Councils as
8 well. How do you get all those upfront issues on the
9 table, work them out upfront instead of just kind of
10 letting them pass along, pass along and then you get a
11 jeopardy opinion. And then you do your reasonable and
12 prudent alternative there, well you could have solved that
13 right upfront if you would have known about it. And
14 that's the key.

15 I think you get to better decision-making. Yes,
16 it's more involved, yes it takes longer. But I think,
17 Julie, the table you have here is just fantastic to help
18 folks focus on what are the end results we're after, what
19 are -- yes, there's pros and cons and maybe there's
20 untested parts of it under an MOU but at least we all
21 agree it leads to better decision-making. And so, the
22 model you're talking about here, I'm talking about with
23 the Corps of Engineers on aquaculture, this same sort of
24 thing. How do we get that upfront so we identify those

1 problems early and resolve them until we, you know, six
2 months later have a jeopardy opinion potentially. So,
3 just in a word, excellent, thank you.

4 MS. MORRIS: Well, and just to mutual admiration
5 here, the work of the NMFS staff people who are
6 participating in the process has been really key and
7 really positive and really solutions oriented. And that's
8 been great.

9 MR. RISENHOOVER: Yes, I wish I could take
10 credit for that but I can't but I'm going to figure out
11 how.

12 MS. MORRIS: And also, Western Pacific and
13 Pacific Councils have been most aggrieved by process
14 that's been unsatisfying to them and they've come to this
15 work with a really positive attitude as well.

16 So, you had a comment, Columbus?

17 MR. BROWN: I just was going to say at the end
18 of the day I think we're going to be able to work it out.

19 MS. MORRIS: Okay. The other two issues which
20 are related to this but we've been viewing them a little
21 bit separately, one is one that Pam has been sort of
22 leading on which has to do with a mechanism for protected
23 resource to sort of categorize the type of information
24 that they choose to use as the basis for their biological

1 assessment and biological opinion. And I'm going to let
2 Pam talk about that.

3 MS. YOCHAM: Okay, this is in response to some
4 input from the Councils that it's sometimes not clear why
5 model A was used instead of model B in making some of
6 these assessments. And getting at this black box question
7 of well, it's our professional judgment or some sort of
8 lengthy policy that's a whole bunch of paragraphs about
9 data quality or something like that. And we were
10 wondering if there might be another way to sort of
11 characterize types of information, recognizing that there
12 are limits, we have data poor environments and so on.

13 And so, one of the possible scenarios that was
14 put forward is something that's used in biomedical
15 evaluations and research where you categorize something
16 that is a clinical trial, for example, or has gone through
17 multiple clinical trials would be one category of
18 information that maybe people would have an understanding
19 of why that was selected over a published but anecdotal
20 report from a single physician on his use of a medication,
21 something like that. And so, not that the type of
22 information that's used in these analyses are going to fit
23 into these nice categories but if there were a way to
24 somehow come up with a matrix or a chart like this that

1 sort of reports that information so that the general
2 public and whoever is looking at the opinion has some
3 sense of why this was selected and not that.

4 And so, been working with NOAA staff, with Stan
5 on the staff, to try to figure out how we can do that, how
6 we can find some sort of a little matrix like this that
7 would meet the -- that wouldn't pigeonhole and wouldn't be
8 quite as rigid as what's necessary if you're deciding to
9 approve a medical device or a new chemotherapy drug but
10 would nonetheless give people some confidence in the
11 scientific process.

12 MS. MORRIS: So, that's a work in progress. We
13 hope to have kind of a first look at something along those
14 lines in our July conference call meeting or prior to our
15 July conference call meeting.

16 And then the other thing that we think needs to
17 be more clearly articulated gets back to Sam's comment at
18 the CCC meeting which is that a lot of times these ESA
19 consultations are not slowly deliberated with the
20 development of a regular FMP. There's litigation, there's
21 new information and the timelines are tight. Something
22 has to be done really quickly. And so, better defining
23 what the Council role in that situation is something that
24 we want to focus on as well.

1 It may be that that could be addressed in an MOU
2 approach but again it's a little bit different kind of
3 thinking and we need to do some work on that as well.

4 MS. BONNEY: So, Julie, just one thing that to
5 me is hard to tease out of the discussion. So, I mean I
6 understand kind of the technical support upfront when
7 they're going through the ESA consultation in developing
8 the biological opinion. And I also understand the
9 internal definition of the science and what the findings
10 are within the biological opinion. But then the part that
11 seems to be problematic, at least in the North Pacific
12 Council, is if you're at a jeopardy finding and what are
13 you going to do about the fishing measures to get
14 underneath the jeopardy bar, so to speak.

15 How does that part function and it seems like
16 there's three parts. The upfront work, the internal work
17 in terms of the biological opinion and then the output
18 which is what kind of management measures do you need to
19 put in place to allow the fishing to occur. And right now
20 we're in this do loop in the North Pacific where we know
21 we're at jeopardy but we can't have the conversation about
22 what is enough in terms of the fishery management measures
23 to get under the jeopardy bar. So, it's kind of like
24 playing poker where it's, well, here's my card. Is that

1 enough? Well, if a dollar's not enough, is two dollars
2 enough? So, how could you break open that conversation so
3 that it isn't a black box for that result?

4 MS. MORRIS: Did you say a "do loop?"

5 MS. BONNEY: Yes. Exactly where you --

6 MS. MORRIS: I don't know what that means.

7 MS. BONNEY: Well, in other words you can't ever
8 figure it. So, yes, how do you figure out what is enough
9 in terms of management measures for fishing that's going
10 to satisfy the biological opinion and the ESA, you know,
11 because obviously as fishermen you want the least amount
12 of measures in place that meets the ESA without doing more
13 than you need to in terms of economic harm.

14 MS. MORRIS: Yes, I don't think we've really
15 focused on that and that's a really good suggestion.

16 MR. RIZZARDI: Okay, any further questions for
17 Julie? All right, Julie, thank you for a good report and
18 thank you for all the progress.

19 MS. MORRIS: And Pam and Paul as well.

20 MR. RIZZARDI: Absolutely. Appreciate the
21 members of the Committee who have tackled this and I think
22 the workgroup effort is proving an effective way for us to
23 generate some really meaningful advice. So, I'm very
24 pleased at where we are.

1 **MNF3 Discussion**

2 **Recap of Outcomes from the 3 Meeting Tracks**

3 **MAFAC Endorsement Plus New MNF3 Findings**

4 **and Recommendations**

5 MR. RIZZARDI: All right, so, we've got about 45
6 minutes to an hour worth of work and we were scheduled to
7 take a lunch break at noon. What I'm hoping to do is to
8 at least have people put out their initial insights from
9 each of the sessions and then be able to take the lunch
10 break. So, we may start the lunch break a little later
11 but come back a little later that way we'd have the lunch
12 period to talk about the issues that people have
13 identified after their initial review of Managing
14 Fisheries 3.

15 I know yesterday Mark walked through assignments
16 for folks. So, what I'd like to do is just walk through
17 each session and have people hit the highlights and then
18 after we've done that initial effort, take our break and
19 then come back and figure out how we're going to tackle it
20 as a body. I'll point again I think it's important for us
21 to distinguish between near term work product and
22 long-term work product. And hopefully we can come away
23 from today with some insights that we can wrap up over a
24 teleconference or something and be able to give a document

1 to NOAA about initial thoughts of MAFAC especially if we
2 have some budgetary insights recognizing all the feedback
3 that we're getting from the leadership panel in the
4 closing session.

5 And then also what issues would you like us to
6 put on the agenda for MAFAC over the coming meetings? And
7 what did we learn from Managing Fisheries 3 that we think
8 we would like to tackle as a body? So, with those two
9 insights, Mark, do you have comment or should we just move
10 to Session 1 and go around the table?

11 MR. HOLLIDAY: So, just to confirm you were
12 going to run through the nine topics before lunch with the
13 major thoughts or concentrations about what people want to
14 get on the table?

15 MR. RIZZARDI: Right.

16 MR. HOLLIDAY: Okay, okay.

17 MR. RIZZARDI: What we originally had on the
18 agenda was to do that before lunch and I'm still trying to
19 get that done that way we can take our lunch break with
20 that education already in place. And then go talk about
21 it and discuss it.

22 MR. HOLLIDAY: So, we can project -- and you
23 want to go in order, Session 1, Topic 1 is that --

24 MR. RIZZARDI: Right.

1 MR. HOLLIDAY: Okay.

2 MS. LOVETT: Oh, I thought we had prioritized
3 them in different order yesterday.

4 MR. HOLLIDAY: Well, that's what I heard him say
5 just now, though, so I'm --

6 MR. RIZZARDI: You want to do a different order?

7 MR. HOLLIDAY: Well, yesterday we talked about
8 based on the number of people who went to them that might
9 have been expressed an interest on --

10 MR. RIZZARDI: Yes, I'm fine with the order that
11 we originally identified. We can do it in that order.

12 MR. HOLLIDAY: Okay. And we did print out just
13 a couple of paper copies because we recognize some people
14 may not have their laptops in front of them or the screen
15 might be -- So, if anyone needs a paper copy this morning
16 we have four here.

17 You can have them back, okay. This is -- but
18 you're going to project so just -- yes, I think once we
19 know we're going to do Session 2, Topic 1 Assessing
20 Ecosystem Effect, so bring up the PowerPoint. We can see
21 that just as background and I think the process, Keith, is
22 really just to open up to the commentary about those
23 findings that were reported out. Is there any reflection
24 on that? We have the trigger questions about what was the

1 focus of this session. Were there particular policy
2 questions raised that are specific interests that you
3 think the Committee should undertake? Were there next
4 steps involved that we might want to queue up and assign
5 to a Subcommittee?

6 That's the kind of discussion that we'd like.
7 We're not going to necessarily try to solve the questions
8 or resolve them here. We're queuing up what did we hear
9 from the symposium that's of interest to MAFAC that might
10 wind up as one of our topics for further exploration? So,
11 Session 2, Topic 1.

12 So, we're looking -- I don't have the notes from
13 yesterday but we originally had asked a couple of people
14 to help in kicking off the discussion. I don't know if
15 they want to go first or just be available if questions
16 come up but it was Ted and Pam was the original list. Do
17 we need to change that or --

18 MS. YOCHAM: Yes. No, I think -- and Ted and I
19 talked about this a little bit at the break and if I
20 remember correctly yesterday the thought was that we would
21 just sort of go through these recommendations and then if
22 people had comments or suggestions, particularly people
23 who hadn't attended those sessions, if they didn't know
24 what was meant by that. And then maybe comments as Keith

1 was suggesting is this something that it looks like MAFAC
2 would want to tackle somehow? Is this something that
3 MAFAC could recommend as something that could be done
4 right now particularly something that might save the
5 agency money?

6 Or does this fall into a category of some
7 aspirational topic that is beyond the scope of MAFAC to do
8 anything about? And anyway, that's how I remember it so,
9 Ted, did you want to make any other comments? So, I would
10 suggest we just sort of go down them, pause for a minute
11 and then if either of us wants to say something we will
12 and then if other people have questions.

13 MR. AMES: Yes, that works fine for both of us.
14 We'll also be glad to expand our -- share our own
15 interpretation of what each of these components brings to
16 our mind too. However you guys are comfortable with our
17 dealing within this.

18 MR. RIZZARDI: Okay.

19 MR. HOLLIDAY: So, just as a process
20 intervention, I think part of what we're trying to do is
21 identify priorities. And so, when you speak to number 1
22 if we could agree to use sort of scale or value from one
23 to nine that I think for MAFAC number 1 is a low priority
24 therefore I'd give it a one. So, we can begin to talk

1 about if you think it's high, medium or low without
2 revealing -- you know as we reveal this by discussion.
3 But we can start out by trying to say at least in these
4 three bins, that might be a quicker way to identify which
5 ones are we going to try to take up after lunch.

6 I mean is that -- I'm trying to figure out cause
7 this is what you were describing, a process to get --

8 MR. RIZZARDI: I don't even think we need to
9 rate it even one to nine. I think high, medium, low is
10 probably good enough and really what I'd like to see us
11 get to is the highs. That's really the key to this is
12 what jumps out at us as high priority, either a high near-
13 term or a high long-term priority.

14 MS. DOERR: Can I just ask a clarifying
15 question? So, a priority for us, MAFAC, to delve into or
16 priority for NOAA because they're not necessarily the same
17 thing. MAFAC?

18 MR. RIZZARDI: We have a limited amount of time
19 this afternoon to do this triage. Where do we want to
20 spend our time best?

21 MS. DOERR: Yes, just wanted to make sure --

22 MR. RHEAULT: As another process question, some
23 of these issues are very important but not necessarily
24 going to be dealt with properly in MSA. Are we

1 restricting our comments one way or the other? Just
2 asking.

3 MR. AMES: Well, let's just throw out a very
4 important or not something we can deal with effectively.
5 I think we can plow through these pretty quickly if we do
6 adhere to that. The first one addressing root causes
7 that's -- I don't think that's something we can address
8 directly but number two seems very important. Increasing
9 coordination between and across jurisdictions to address
10 the changes that are occurring could use a formal
11 structure that would help getting the issues on the table
12 to all the affected people.

13 MR. RIZZARDI: Aren't there multiple findings?
14 Are you going to address them?

15 MS. YOCHER: Yes.

16 MR. AMES: Shall we just --

17 MS. YOCHER: We have some discussions.

18 MR. AMES: Flexibility to respond to spatial
19 allocated distributional effects of climate change.
20 That's an important component to have in the process that
21 evolved and is something that we could address. It is
22 important because with changes that are occurring in some
23 areas very rapidly, it means we're going to have to deal
24 with it effectively and quickly.

1 Rebuilding requirements is going to be a major
2 factor and needs to be considered and stocks decline in
3 one area when they're being affected by changes. For
4 example, if you have a depleted stock and part of the
5 cause of that is because of environmental factors or
6 global warming or whatever you have to be able to account
7 for it. But I'm not sure how effective we can be in that
8 other than helping or suggesting a process for it to occur
9 in.

10 MS. YOCHER: Yes, and I would just say that this
11 whole, you notice that the top is precautionary and
12 adaptive management and there were a number of talks and
13 discussions in this section about this need for ecosystem
14 based management and integrated assessments and things
15 like that. And this concept of the importance of adaptive
16 management and that as things change being able to have
17 some sort of an iterative process and an overarching theme
18 of maybe ways that you can involve the regions in this.
19 Perhaps, you know, as a cost savings it was suggested
20 potentially giving industry a role with then NOAA taking
21 an oversight.

22 So, in other words, we monitor what you're
23 doing. You're making some of these short-term decisions
24 and so, that was what the discussion was sort of about.

1 And then some of these individual things relate back to
2 that. So, for example, number six this precautionary
3 approach, the specific example that was discussed was new
4 areas that might be becoming ice free and we don't really
5 have information about those areas whatsoever that, you
6 know, traditionally they haven't been fishing grounds.
7 And so, how do we need to approach those. And so, that's
8 one sort of end of the spectrum.

9 And then the other end of the spectrum would be
10 a situation where there's a lot of, you know, there's an
11 active fishery. Things are changing within a season and
12 is there a way to empower some of these regional groups to
13 be making some decisions within the season and then have
14 NOAA evaluate those later on. So, I don't know if that
15 context helps at all with some of these breakdowns of
16 individual issues and where. Because some of those are
17 things that are possible, it was explained are possible
18 now. It would just be a matter of MAFAC saying, we think
19 they're a good idea or whatever. And then there were
20 other things that would require changes to the
21 legislation.

22 MR. AMES: Yes, and it's really relevant
23 particularly in New England where you have stocks which
24 are progressively moving farther north and introduction of

1 new species into areas that there needs to be a mechanism
2 for dealing with that. But which means real-time data
3 from fishing platforms for example would be an invaluable
4 part of the process and so on.

5 MR. RIZZARDI: But in terms of what you guys
6 have put on the screen so far and what I've heard is sort
7 of 2, 3, and 4 have been the items that you've identified
8 as the highest of priorities and ones that we could be
9 either in the near term or the long-term doing some MAFAC
10 follow up on. Is that a fair characterization?

11 MR. AMES: That is. Six is already, the
12 Councils are already charged with using a precautionary
13 approach is my understanding and that probably we needn't
14 go there.

15 MS. YOCHER: Any other questions on this before
16 we move to the -- I think there's like 12 or something
17 altogether so 12 points.

18 MR. RIZZARDI: Columbus?

19 MR. BROWN: Actually I think 3, 4, and 5 are
20 really all related and could be bundled together.

21 MR. AMES: Yes.

22 MS. YOCHER: If you look at -- some of these
23 issues are going to interrelate across different sessions
24 and topics. So, number 4 really deals with National

1 Standard 1 guidelines in terms of rebuilding fish stock.
2 So, I don't know how you park, I mean, the different. One
3 is how do you build flexibility spatially and allocate it
4 distributionally in terms of fish stocks changing within a
5 region. The other is more in context about overfished
6 stocks and legal issues and guidelines from NMFS. So, I'm
7 just flagging the difference between the context of
8 implementation and legislation and things we can
9 accomplish.

10 MR. AMES: These are really critical but there
11 are layers of complexity here because if you examine,
12 assess barriers to adaptation you're talking about
13 fishermen who have quota for one species and all of a
14 sudden they've disappeared. Or an influx of another
15 species and establishment in that area and somehow we need
16 to fit enough flexibility in the system to allow fishermen
17 to accommodate those changes.

18 So, these are all important issues and we can
19 put input. I think certainly the assessing the barriers
20 is a critical feature for our industry.

21 MR. RHEAULT: Ted, could you turn off your mic?

22 MR. AMES: Oh, I'm sorry.

23 MS. YOCHAM: Okay, in this one I mean this
24 concept of ecosystem productivity change recognizing that

1 there's some sort of a shifting baseline. This concept of
2 an environmental trigger, those are sort of specific
3 topics related to how can you adapt your management scheme
4 to that. And then number 8, I think this was something
5 that I heard across a lot of the talks that I went to,
6 this concept of making sure that you maintain the regional
7 flexibility and perhaps, you know there was this sort of
8 devolution or whatever discussion of involving the
9 industry more in some of the steps of monitoring and data
10 collection and so on.

11 And then number 10, the concept of place based
12 closure areas and things like that. Again, recognizing
13 that there might be a shifting baseline and so, an area
14 that was a very productive nursery area, for example, if
15 water temperature changes that might gradually shift in
16 one direction or another. And how do you address that?
17 Again, getting back to this concept of flexibility and
18 adaptive management.

19 MR. RIZZARDI: So, of these did you identify any
20 of them as things that you think are really high
21 priorities for MAFAC to be tackling?

22 MR. AMES: Number 8 primarily is a problem that
23 should be looked at primarily because National Marine
24 Fishery Service monitors on a large scale. And the events

1 that are going to be affecting our fisheries most
2 dramatically are occurring on the coastal shelf, for
3 example, and more discreet areas. So, developing a
4 mechanism to get information or real-time data from people
5 who are operating in there becomes credibly important.

6 I don't know if that's a niche that we can
7 contribute to but real-time information in that situation
8 would be valuable in this period of transition.

9 MR. HOLLIDAY: So, I wasn't at the session but
10 number 10, did that talk about broad fix area closures not
11 just for biological reasons but the efficacy, you know
12 once an area's closed how do we open it up again? Cause
13 that was an area that was of importance to MAFAC in
14 previous Recreational Subcommittee discussions about
15 access to the resource and California closure areas, that
16 sort of thing.

17 MS. YOCHER: Yes, definitely that was part of
18 the discussion.

19 MR. HOLLIDAY: So, I would propose then I think
20 10 would be one that might be of interest to the Committee
21 to follow up on.

22 MS. YOCHER: Yes, I would agree.

23 MR. AMES: Same here, I concur.

24 MR. RIZZARDI: Patty?

1 MS. DOERR: I'm sorry. To go back to number 8.
2 I feel as if that is connected and can be lumped in with
3 2, 3, 4, 5, whatever that other group. It's the bigger
4 picture. It's all about having this bigger picture of how
5 do you deal within a region when things change. So, I
6 think they can just be lumped together.

7 MS. YOCHAM: Okay, a couple of sort of sticky
8 wickets on this 11, 12, and 13. I don't know if these
9 would be priority things that MAFAC would want to
10 undertake and make a recommendation on but for example,
11 number 12 the comment there was that the concern that
12 species with very robust or growing or large current
13 populations and short-term trends looking like that's
14 going to continue are being proposed for listing under the
15 Endangered Species Act because of some future concern
16 about climate change and impacts on habitat, for example.

17 And the concern was that this dilutes the power
18 really of the Endangered Species Act, wastes resources
19 that could be better spent addressing species that are
20 truly endangered right now and takes available funding
21 away from recovering those species and so on. So, again
22 that was sort of the finding was that there was a concern
23 about this. Whether MAFAC would want to take that on or
24 not, I don't know.

1 And then likewise number 13 there was some
2 concern expressed about some of the mechanisms that are
3 set up under the National Ocean Policy and how are those
4 going to incorporate current things like the Regional
5 Councils, for example. If there's going to be a regional
6 panel and a regional council, how are those going to work
7 together and some concerns about transparency under one
8 process and possibly another process was not as
9 transparent or there wasn't as much opportunity for input.

10 So, again, I don't know if that's something
11 that's kind of a big policy question. I don't know if
12 that's something that MAFAC would want to tackle or not
13 but I'll let Ted also clarify and then I think maybe have
14 some feedback from folks.

15 MR. AMES: Yes. The issue of the function of
16 the National Ocean Policy has been a major concern in Gulf
17 of Maine Fisheries primarily because many of our fisheries
18 have been depleted. And fishermen are looking at it and
19 saying if we use these historical spawning grounds,
20 nursery areas, the basis for the productivity in the
21 system for other purposes, then we may be freezing the
22 fisheries that exist into a permanent state of depletion.

23 So, if nothing else then the question has been
24 how do you prioritize a system where we have many uses and

1 needs for different types of uses that would directly
2 affect a fishery when it could be accommodated? So, it's
3 really an issue of prioritizing which issues should
4 Council, National Ocean Policy Group proceed.

5 These are really tricky things. And, of course,
6 is very much on point too and we may be able to contribute
7 there but these are sticky issues and there are no easy
8 solutions.

9 MR. RIZZARDI: So, I just want to point out all
10 the issues that get identified here are sticky issues. I
11 mean, there's nothing going through this process that's
12 irrelevant, right? These have all been identified as
13 leaders, as important issues. And what we have to try to
14 do is tease our way through on which ones we're going to
15 invest our effort in.

16 And what I've heard so far is we've kind of got
17 this concept of the need for a national strategy on inter-
18 jurisdictional coordination when you have regional species
19 shifts due to climate change. And that concept covers 2,
20 3, 4, 5, and 8 on these priorities. That one single
21 concept of creating some sort of national strategy and
22 that may be an appropriate thing for MAFAC to sink its
23 effort into.

24 This ESA point that's been raised seems to fit

1 kind of nicely with the data quality evaluation effort
2 that's already going on in the taskforce. It could be
3 something that you could squeeze into the ongoing working
4 group initiative. I mean you're looking at the quality of
5 the data that you're using to make Endangered Species Act
6 decisions. Could you add this concept straight out of
7 Managing Fisheries onto the existing and ongoing effort?

8 Julie, Pam, do you think that's --

9 MS. MORRIS: I'm making a note. I don't know.

10 MR. RIZZARDI: Okay. So, and I'm trying as best
11 as I can to be a lumper so that we come out of this
12 process with some clear direction on what we're going to
13 do as a result of Session 2, Topic 1, which was the one
14 that was most attended by our membership and which
15 everybody recognizes as an important issue. What are we
16 going to take away from that process?

17 And I've heard develop this national strategy
18 for inter-jurisdictional coordination when you have
19 regional shifts in species due to climate change. That's
20 the takeaway message that we got. How are we going to get
21 our Councils to work together? How can NOAA help those
22 Councils work together? How do you work with the States
23 in the State waters?

24 And in the second issue that got identified was

1 the efficacy of closures?

2 MS. MORRIS: Yes.

3 MR. RIZZARDI: Which does it fit enough in and
4 it's all part of the same thing? And is the bottom line
5 takeaway, MAFAC wants to work on a national strategy on
6 how the mechanisms of fishery management can coordinate on
7 climate change. That's a big thing to tackle.

8 MS. YOCHAM: It is.

9 MR. RIZZARDI: Liz.

10 MS. HAMILTON: I like how it fits under
11 flexibility which I heard in every single session that I
12 was in is how do we be more nimble and more flexible in
13 adapting to these things. But I would suggest unless the
14 slashers just changed the sentence so much I don't
15 understand it in 12, basing listings on projected trends
16 of climate change, I don't know if they meant base. If
17 that's the main reason for the listing but I know that
18 that whether or not climate change comes into the
19 consideration could be more of a judge's call if it ends
20 up, you know what I mean? This may not be something we
21 really have anything to say about.

22 MR. RIZZARDI: Just to clarify on that point,
23 there's a concept in the Endangered Species Act that you
24 may list a species as threatened or endangered based on an

1 evaluation of the foreseeable future. And when you're
2 doing the foreseeable future how far out do you look?

3 And you know, polar bears, the ice is melting
4 and in 30 years polar bears are going to be in trouble.
5 Okay, so does that mean you list it now or do you wait?
6 And that's the fundamental question that's at the heart of
7 item number 12. All right? If you don't list now then
8 you're simply kicking the can down the road and you'll be
9 dealing with the problem later. If you already know you
10 have the problem, so, how do you address it? That's one
11 of the sticky wickets of the Endangered Species Act
12 implementation.

13 Okay, so, Liz's comment was she doesn't see it
14 as a MAFAC thing. I do think it at least relates to the
15 quality of the data which is where I saw there was an
16 opportunity to squeeze it in to the ongoing assessment.
17 And see if you can get the working group to come up with
18 any level of agreement of on that concept. And if not,
19 okay, then that's what the working group tells us. But it
20 just seemed like that was a good place to part the
21 concept.

22 MR. CLAMPITT: Well, as far as number 10, to me
23 if you're going to base ESA listings you want to do that
24 on current trends and not projected trends. I would say

1 that if you're going to close fishing areas I'd want to do
2 it on current trends and not projected trends also. I
3 don't know if that's a place to add that in here or not
4 but -- or if you want to get into that discussion but.

5 MR. AMES: The difficulty is when you have a
6 closed area that's been protecting fish for reproduction,
7 for example, and Georgia's bank is the place that comes to
8 mind because it's in a state of transition right now with
9 warmer water. And the areas that are currently used to
10 protect reproduction may no longer be used.

11 I think they should be reevaluated and
12 comparable areas that are becoming reproductive centers
13 should be substituted in their place that way you're
14 maintaining the viability of the fishery. But it needs to
15 be more than just open, well this area we can because it's
16 no longer being used. It means that we need to sort out
17 why and where and if the fishery can still be salvaged in
18 the area then the new place identified. But anyway, I
19 think it's an important process.

20 MR. RIZZARDI: Dave?

21 MR. WALLACE: An observation. If we continue
22 down this path it will be 5:00 before we get through the
23 list. We're now debating the issues and not addressing
24 the issues. I have made a short list of the one that I

1 said I would participate in and I have high, 4, medium, 3,
2 low, the rest of them. So, you know and this way are we
3 going to come back? I can tell you that any one of these
4 issues we can spend a month on. So, let's just get out of
5 the weeds and deal with the issue.

6 MR. RIZZARDI: Good comment. I think this
7 particular issue was tougher than some of the others
8 because of the big, conceptual nature of the climate
9 change concepts that were being tossed around. That said,
10 your point's well taken --

11 MR. WALLACE: To all of the functions in two
12 are --

13 MR. RIZZARDI: I'm already accepting we'll
14 probably only get through the first three or four of the
15 Sessions and identify our priorities and we'll figure out
16 how to handle it when we get back from lunch. All right,
17 unless there's any further discussion on this one I think
18 I got a clear takeaway of something that we're going to
19 put in the parking lot. And this notion of coming up with
20 some interjurisdictional planning mechanism and some
21 national strategy.

22 All right, so what's the next Session that
23 we're --

24 MR. BROWN: The parking lot.

1 MR. RIZZARDI: I didn't realize there was
2 another slide, I'm sorry.

3 MS. YOCHAM: And I would just say, in the
4 interest of time if I could just jump in here, this under
5 integrated ecosystem assessments, 14, 15, 16, and 17 all
6 have to do with how you do that basically. What are the
7 tools available to do that? Making sure that they have
8 flexibility, can incorporate short-term data, dealing on a
9 data poor environment and so, I don't think we need to
10 list them. Number 16 suggests that in order to get your
11 integrated ecosystem assessment you have to incorporate
12 all of these things. I don't know what the MAFAC role
13 would be on this other than to support this concept.

14 MR. AMES: Yes and on top of it you can
15 consolidate some of our earlier ones with that same suite
16 that Pam just mentioned.

17 MR. RIZZARDI: Michelle?

18 MS. LONGO EDER: Just ready to go to the next
19 one.

20 MR. RIZZARDI: Okay, next major topic.

21 MR. HOLLIDAY: Session 3, topic 2.

22 MS. LOVETT: I'm headed there.

23 MR. HOLLIDAY: Page 46. And who's reporting
24 now?

1 MR. RIZZARDI: Michelle.

2 MS. LONGO EDER: Bob and I haven't talked about
3 this as to how to handle this but I did want to make a
4 couple of prefatory comments and try and make them quick.
5 I realize most people were at the conference but I did
6 want to emphasize that the nine sessions it wasn't
7 possible to address all areas of concern in terms of
8 fisheries management. And so, to some extent I want to
9 raise that point that MAFAC's discussion at this point is
10 being driven by what those sessions, how they were
11 focused.

12 And I think that that's something that needs to
13 be remembered. And so, that raises to me the issue of how
14 this conference and these sessions become a framework for
15 action for MAFAC and if it should. I also want to say
16 that I think the choice of speakers that it was an
17 incredible learning experience for me. But the choice of
18 speakers, I think, and the method by which the process
19 went also drove the discussion very much so.

20 In other words it was their viewpoints that were
21 recorded and then responded to and then recorded as the
22 findings. Again, I know I'm stating the obvious and I'll
23 try and be quick about this but I think that that is
24 something that we should keep in mind as we decide what

1 MAFAC's agenda is going to be.

2 Finally, I do want to emphasize too that these
3 were not consensus recommendations. That there was ample
4 opportunity for public comment and response to all of the
5 presentations but this is not consensus in terms of a
6 broad spectrum of potentially a fishing community and/or
7 any of the communities that participate in the conference.
8 And I think that's important to highlight from my
9 perspective.

10 I can start and go through these fairly quickly
11 if I may?

12 MR. RHEAULT: I thought Bonney and I were
13 assigned to this one.

14 MS. LONGO EDER: Oh.

15 MS. BONNEY: Yes.

16 MR. RHEAULT: We did talk about. I thought you
17 swapped with Bonney.

18 MS. LONGO EDER: Well, we got confused on this
19 end. So, my confusion but --

20 MS. BONNEY: Yes, I think we're -- Bob and I
21 have the lead on this one and you're welcome to -- I
22 thought we switched and you were on topic 3 discussion.

23 MS. LONGO EDER: There was -- we talked about it
24 yesterday. There was some confusion on it so.

1 MR. RIZZARDI: Michelle, I think your points are
2 noted. It's sort of by definition that's the case at any
3 conference that you engage in and any discussion you
4 engage in. The opportunity we have here today is as a
5 body of MAFAC, which one of the issues that have been
6 identified do we choose to tackle? There may be other
7 things down the road that we choose to tackle that are not
8 on this agenda and none of that is precluding that. You
9 know, if MAFAC has other issues we want to engage in, of
10 course, we can.

11 I know Mark you put a substantial amount of
12 effort into planning the conference. Did you have a
13 comment you wanted to provide on that?

14 MR. HOLLIDAY: I was just going to affirm what
15 Michelle said. I think she made an excellent point that
16 the purpose of reviewing these is not to set MAFAC's
17 agenda in stone. It's we came to this meeting on purpose
18 and so we purposely scheduled our MAFAC meeting to
19 coincide with those. I think the effort today was just to
20 say what do we get out of it that's going to inform us?
21 But we're going to continue to get other topics that are
22 either assigned to us by the Secretary or the
23 Administrator or we'll continue to come up with topics
24 that we think are relevant that the Secretary and the

1 Administrator needs to know about.

2 So, I think your point is spot on that this is
3 not the only thing that's going to drive what we think's
4 important. We may come up and say we spent three days
5 here, good conversation but there's only two things that
6 are really relevant to us right now as a body and that's
7 perfectly fine. But that was -- we needed -- this is part
8 of our debriefing. You know what is it that we found that
9 was of interest to us that we think is relevant to our
10 goal as a Committee? So, thanks for the observation.

11 MR. RIZZARDI: And Julie and Bob did you have
12 something to add?

13 MR. RHEAULT: So, in an effort to speed this up
14 and try and get out of here before 5:00 p.m. this was a
15 hodgepodge session that was very challenging I think. And
16 a lot of the recommendations are sort of very nice, warm,
17 fuzzy recommendations that have really no policy
18 implications.

19 I fundamentally misunderstood the assignment. I
20 thought we were supposed to be talking about
21 recommendations for MSA but that's all right. I think
22 I'll continue to plow ahead instead. So, there were a lot
23 of discussions about institutional impediments, 2 and 14
24 are the same recommendation to streamline permitting for

1 aquaculture. There was several recommendations, 9, 4, and
2 12 which I think were important in terms of linking
3 stewardship and reporting to your permit and devolving
4 some of the management to industry and cooperative
5 research. And I think that those are very important in
6 terms of improving the data quality and lowering the costs
7 to NOAA.

8 And then there's a lot of discussion occurred at
9 this session surprisingly on aquaculture and the need to
10 supply 58 million metric tons by 2050. And my reading on
11 that was is Magnuson Stevens the proper tools to address
12 aquaculture governance and I would say probably not.

13 But does that mean that we need some other tool
14 for NOAA to properly address aquaculture? Well, I think
15 that that is an important issue. So, if we're going to be
16 regulating aquaculture through the Councils do we deserve
17 a seat at the Council? Is there a need for NOAA to have a
18 statement of priority or need? Should it be a co-equal
19 with other forms of fishing like commercial, recreational
20 of subsistence fishing in the eyes of management and
21 funding? There's certainly a need for a lot of scientific
22 research in the development of a domestic industry but I
23 don't see that as a Magnuson role and I'm not quite sure
24 whether it's a MAFAC role. But I think they're vitally

1 important to the nation.

2 So, and then Bonney was going to jump in and see
3 what I missed.

4 MS. BONNEY: Okay. Thanks, Bob. So, I would
5 agree with Bob's statement that this was kind of a
6 hodgepodge and you even said that, Mark, when you kind of
7 talked about Session 3 when we talked through in the big
8 conference room. So, it was about financing. It was
9 about aquaculture and it was about access to resource for
10 smaller communities. And so, to try to focus on what
11 actually came out of the discussion really I think the key
12 component for me was you had a lot of the smaller
13 communities that are trying to figure out how to build
14 infrastructure or community for them which really relates
15 back to the Working Waterfront that Keith was talking
16 about.

17 And so, I think there's a lot of utility already
18 in Magnuson that these groups don't understand. I don't
19 know that there's ever been any kind of guidance about
20 community fishing associations or regional fishery
21 associations. There was some in terms of financing for
22 communities, there's already some financing for permit
23 banking and things like that. And so, having what some
24 kind of guidelines or understanding for what tools. Turfs

1 was brought up in terms of what's already within the
2 allowed provisions that might help these communities
3 advocates facilitate where they want to do.

4 And it kind of works into the Working Waterfront
5 Seminar that you went to and some of the same folks and
6 same struggles that they're going through. So, that's
7 kind of my top line I guess. Secondary, though, I agree
8 with Bob. I think there's a lot of potential for
9 financial savings for the agency if we can figure out how
10 to what, implant cooperative programs that develop data
11 for stock assessments and managing the fisheries, whatever
12 that might be. So, that's my short list on all of the
13 different topics.

14 MR. RIZZARDI: Michelle, did you have something
15 to add?

16 MS. LONGO EDER: No, thank you.

17 MR. RIZZARDI: Ted?

18 MR. AMES: Yes. I think a key component in this
19 involved the linking ecosystem based management and
20 different scales of fisheries and different scales within
21 the ecosystem itself. I think there's a unity there.
22 It's well publicized in the scientific information but
23 it's not made it into management yet and I think that
24 would tie a number of loose ends together including

1 Working Waterfronts and local financing but also local
2 productivity. It might well be an important issue to
3 resolve a lot of NMFS problems.

4 MR. RIZZARDI: John?

5 MR. CORBIN: I recognize I'm still at the stage
6 of wondering what I got myself into. But I come to this
7 body thinking that we really need to define a pathway to
8 permit aquaculture in federal waters and create property
9 rights that will facilitate private investment. And I
10 note that the Vision 20/20 says essentially that. And I
11 think MAFAC could have a role in figuring out where we are
12 in that outcome that we desire and how we need to get
13 there in an expeditious way. So, I think that's a real
14 important topic for MAFAC to consider. Thank you.

15 MR. RIZZARDI: Okay. So, as we have this
16 discussion I'm sitting here with a piece of paper in front
17 of me that's got our Committees, ecosystems, commerce, rec
18 fish, strategic planning, and I'm trying to figure out how
19 do I come up with concepts that can be assigned to our
20 different Committees so that we can chew on it and get
21 something done. And out of this one I'm seeing
22 aquaculture which we see again and again in some of the
23 other sessions, too. And the theme I keep seeing with
24 aquaculture is greater mechanisms for investment and

1 improving the regulatory mechanisms.

2 And it would seem that thinking ahead and this
3 will come out of other sessions as well, our Commerce
4 Committee should probably try to tackle and put together
5 all the recommendations that are coming out of Managing
6 Fisheries, putting together some of the past
7 recommendations that MAFAC has already made and delivering
8 a package with clear recommendations to the Secretary on
9 how to improve aquaculture. Here is the specific way to
10 do the investments. Here's the specific way to improve
11 the regulations and let's be more detailed than we've been
12 in the past.

13 You know, it's been very easy in the past for us
14 to just say as a body, we think you should invest more in
15 aquaculture. And now I think coming out of Managing
16 Fisheries 3 is this clear message that aquaculture is
17 important. It should be a national priority. It's a food
18 safety and a food security issue. It's a global issue and
19 we need to get in front. And we keep hearing the same
20 message so now what do we do with that message. And it's
21 let take it another step. So, I'm thinking the Commerce
22 Committee is likely to be tackling that one.

23 And I'm also hearing the same theme of National
24 Standard 8 and Working Waterfronts and communities and how

1 to make that work. And I've kind of got that one in mind
2 too as an issue for the Commerce Committee to tackle and
3 to address how to create sustainable communities. And
4 what do we do with the Working Waterfronts toolkit and
5 what do we do with the various recommendations that came
6 out of Managing Fisheries. And I realize I'm being a
7 lumper and I'm taking all these issues that came out of
8 all these different sessions but I'm also cognizant of
9 Michelle's point that it's all driven by who the speakers
10 where and what comes out of Managing Fisheries doesn't
11 necessarily have to be the same thing that MAFAC says.

12 But there is this connection and there is this
13 opportunity to tackle National Standard 8 and either it's
14 policy guidance for NOAA, maybe it's a recommendation to
15 elaborate on the guidance, whatever it is. But I do see
16 that as a potential topic for the Commerce Committee to be
17 tackling. So, those are the two big takeaways I got out
18 of Session 3, Topic 2.

19 Any others? No more comment? What's our third
20 session?

21 MS. MORRIS: Session 3, Topic 3, Mark was the
22 moderator of this Session and probably helped formulate
23 the findings. So, he's definitely a resource for us in
24 this part of the conversation.

1 And it's a little foggy about who was leading
2 discussion on this but I definitely volunteered, Liz said
3 she would help and Columbus said he would help since he
4 was a panelist. So, I can go first.

5 And what I've done, Heidi, is instead of going
6 through all of them I've picked out a few to highlight.
7 The first is number 1. I don't think number 1 is
8 something that MAFAC should be working on but it was a
9 very strongly stated provocative point in the Session that
10 MSA may not be the right body of law to respond to this
11 tsunami of change that's coming towards us in terms of the
12 population growth, climate change and globalization. So,
13 I don't think there's a way for MAFAC to specifically dig
14 in on that but it was a strongly stated and persuasive
15 point, at least provocative point in the Session.

16 Second, I want to move to, I don't have the
17 numbers; MSA should explicitly promote use of adaptive
18 management approach, number 4. Okay. So, this seems like
19 it might be a medium priority for us and it's not a
20 short-term thing but maybe in between short- and
21 long-term. And adaptive management came up in many of the
22 sessions. This one talks about it particularly as
23 something that could be used with data poor species and
24 so, I think for the agency trying -- I think for MSA and

1 for the Councils, trying to figure out how to move to a
2 more adaptive management approach is something that MAFAC
3 should be behind but I don't think it's a high priority
4 for us to work on just now.

5 The next one is the need to define and identify
6 sideboards and metrics; this is number 5, of the elements
7 of OY. And I think could be a high priority for MAFAC but
8 I think it's going to take some time. It's not a
9 short-term thing. The discussion in the session had to do
10 with I think at least in my Council experience OY is kind
11 of a black box. It's just a percentage that we reduce.
12 We take -- OY is 25 percent less than MSY. And it's not
13 like we really have had a way to operationalize how do you
14 really back off from MSY due to social and economic and
15 ecological factors?

16 So, I think we've been functioning with this
17 kind of just stick a percentage in there and don't really
18 examine it very much. But one of the speakers, the
19 economist in this Session and some of the audience
20 members, were saying when are we really going to figure
21 out how to operationalize OY for what it was really
22 intended to mean by MSA. So, again, that might be a high
23 priority but it's definitely not a short-term thing.

24 The next was to reform MSA confidentiality

1 procedures, provisions number 11, that and in order to
2 provide greater access to data on harvests from these
3 public trust resources while at the same time protecting
4 sensitive information. So, that may just be a kind of
5 internal data access fix but I'm sure that there's lots of
6 controversial revealing of data issues that would need to
7 be walked through in order to get there. And I'm not sure
8 it's something that MAFAC can contribute to. It's more of
9 an internal agency kind of thing. I mean we could provide
10 pressure to do it.

11 This statement doesn't really get at what the
12 value of doing -- what the value of providing -- who would
13 want to use the information, how it would be valuable to
14 us. It might be spatial information that we're talking
15 about in order to better manage. So, I'm not able to
16 unpack that really. Can you, Mark? Do you know more what
17 was behind that?

18 MR. HOLLIDAY: Well, I think it was there is a
19 limiting factor on the availability of information to make
20 informed decisions. And so, people who are -- there's a
21 sector of participants and fisheries who are unwilling to
22 share information. There's a sector of people who want to
23 have information to make transparent decisions about the
24 use of these resources and that's this tension between

1 protecting private information about could be trade
2 secrets about where fish were caught that lead them to be
3 a high liner versus somebody else.

4 So, there's this -- but this notion that if it a
5 public resource and Councils and members of the public who
6 are allocating privileges to people have an ability to
7 understand what these tradeoffs are. That was the context
8 of it and in making these tradeoffs we can't not have
9 better access to the range of information the public
10 deserves to be knowledgeable of when they give these
11 privileges and make these allocated decisions.

12 MS. MORRIS: So, with that more expanded
13 discussion maybe it could be a high priority for MAFAC but
14 I'll let the rest of us discuss that. Julie wanted to say
15 something about that.

16 MS. BONNEY: I personally think that that's
17 something that we want to avoid because the Magnuson's
18 pretty direct in terms of what confidentiality is and what
19 should be released. And then typically a Council can
20 build objectives when you do some kind of a
21 rationalization or individual account, you know, so you
22 have to make individual information available because you
23 have -- so, I think the Council has that authority already
24 to some extent.

1 So, I look at this as an eye poke from some
2 trying to get to somebody's business plan where -- because
3 I think there's a lot of information available now.

4 MR. BROWN: There's a part that I picked up on
5 was there are folks who would like to see a lot of the raw
6 data that NOAA is collecting that is not necessarily
7 related to a person and business in a much more timely
8 manner and I think we should look at it as a
9 consideration. And --

10 MR. RIZZARDI: And where does it rank?

11 MR. BROWN: And be clear, I think it's a high
12 priority.

13 MS. MORRIS: You can tell just by these two
14 statements that there's disagreement on this. And I think
15 we've have to dig in and learn more about it and figure
16 out if -- it's not -- and again I think it's a medium
17 priority. That's Julie's opinion, I don't know.

18 MR. RIZZARDI: Before I have more MAFAC
19 discussion, Alan, can you give me any sense of where the
20 ongoing rulemaking is? I know that in October there was a
21 huge public comment process on the confidentiality rules
22 and if this is all lawyered up right now it's probably not
23 something MAFAC should be stepping into but just where are
24 we?

1 MR. RISENHOOVER: Right. I don't know that I
2 would call it all lawyered up but it is moving but it's
3 still moving fairly slowly. I don't know, Mark, if you've
4 heard anything more recent. So, the confidentiality rule
5 is still coming but right now I don't know that I could
6 predict a good timeline.

7 MR. HOLLIDAY: Keith, I'm not going to speak to
8 the current rulemaking but I think the commentary at the
9 Session was nothing to do with the current regulations it
10 was looking at the public policy questions about changing
11 the statutory authorities as much as it was where the
12 status is of trying to implement that last revision. So,
13 there is a broader policy question that I think this was
14 attempting to get at it, this kind of quid pro quo of
15 using public resources and how much information is
16 available for the public participation and transparency in
17 doing that.

18 So, I just wanted to reference. It's not tied
19 directly; the discussion was not tied directly to the
20 regulations.

21 MR. RIZZARDI: Okay.

22 MR. RHEAULT: And real quickly it echoes the
23 recommendation that came out of the previous Session so.

24 MS. MORRIS: Okay. Then probably the highest

1 priority and maybe the best match for MAFAC to work on is
2 the last one that has to do with allocations. And so,
3 let's see, here we are, yes, 12, 13, and 14. So,
4 allocations are very contested right now. The speaker who
5 talked most about this described allocations as a door
6 that's rusted shut. He was characterizing the
7 recreational sector as wanting to blow the door open. And
8 so, what people are asking for here is a regular schedule
9 of review for Councils to review allocations so that it
10 would be part of their regular work flow.

11 Councils have shown reluctance to get into
12 reallocation or allocation discussions. This is
13 particularly between commercial and recreational sectors.
14 And they'd rather leave things as they are rather than get
15 into the difficult and contested area of allocations.

16 Another would be for NOAA to support Council
17 allocation processes by defining some standardized methods
18 about how they should go about reviewing allocations and
19 then also give technical support for these reviews to the
20 Councils. And I would add the kind of decision tools
21 which is probably related to the standardized methods.

22 So, I'd expect to hear from Phil, Dick and Liz
23 and Ken who is not here.

24 MR. RIZZARDI: Okay, so, Dick.

1 MR. DYSKOW: Do you want to go first?

2 MR. BRAME: No, you go ahead.

3 MR. DYSKOW: I think if there was a concern from
4 the rec fishing community is there's no methodology, no
5 clear methodology for the changing of catch allocation or
6 a tool, perhaps a mutually agreeable tool that would allow
7 for the transfer of allocation. Those are -- did I
8 articulate that correctly or would you like to change
9 that? And that's the issue that comes up over and over
10 again.

11 So, if there's a topic that MAFAC could make a
12 contribution on, I think that's probably the single most
13 contentious one in rec fishing community. And let me give
14 you two seconds of background. Recreation language wasn't
15 very prominent in the 2006 Magnuson reauthorization and
16 the dialogue that we had with the authors was don't worry
17 about that we'll deal with it later. Because it wasn't in
18 there, there is a concern that probably should have been
19 addressed in the reauthorization of the Act and it wasn't
20 and we would like to have that discussion even though it
21 is going to be contentious, bloody and difficult.

22 MR. RIZZARDI: Liz and then Julie.

23 MS. HAMILTON: I think I see this just a little
24 bit different and maybe from a step back from what you

1 might have just heard. And it fits to something I've seen
2 across almost every topic which is we're not using social
3 economic data in a consistent and standard way across many
4 of our decision-making to look at tradeoffs and to look at
5 changes. And I think, I mean I sort of hate the word
6 allocation and yet it's probably because of the lack of a
7 standard way of discussing it, a standard timeframe to
8 discuss it and all the other things that Council does with
9 the schedule, with rules, with science brought to the
10 discussion, none of that's there for allocation. And so,
11 consequently, it looks like a political jump ball of who's
12 got the bigger bat at that point in time or avoid it all
13 together because of that.

14 So, I think where the value is in discussing
15 what's the right timeline, what's the right framework,
16 what's the right monopoly board, I mean what are the rules
17 so that it becomes standardized like other Council
18 processes are. So, that is part of how I see it.

19 I agree with my folks on the Committee that this
20 is one of the biggest things in the community and I think
21 there were also some strong ties to the sustenance
22 community that I'm going to say a little bit out about
23 Session 1 or Topic 1 from the morning is that I think both
24 communities feel that the management tools for sustenance

1 fishing and recreational fishing really do need to be
2 different than they are in the commercial world. And also
3 that the economics of how a fish moves through a
4 sustenance community and the recreational community are
5 really not well articulated or well understood.

6 So, I think that's the takeaway from this
7 allocation section. And I also, could I comment on the
8 first part, number 1? There was something said on number
9 1 that I wanted to add to because I took -- and Mark you
10 might agree with me here. I took something different from
11 that. I think what Jim was saying is that the big drivers
12 outside of MSA that are affecting our fisheries and going
13 to affect our fisheries, globalization, population growth,
14 climate change and budget cuts are we're operating in a
15 climate that's not letting us be adaptive to these things
16 in a timely manner.

17 And it's something to think about and the whole
18 reauthorization is the context of what's going on around
19 us and is MSA relevant in all that. So, I heard that a
20 little differently. Thank you for so much time, sorry.

21 MR. RIZZARDI: All right. We're at 12:30. I
22 just want to summarize where I think we're at so far and
23 then I'll allow for a little bit more comment. On that
24 item that you just commented on, Liz, of 3.3.1, that seems

1 to fit into the notion of how do you deal with the
2 interjurisdictional consequences of climate change. How
3 does Magnuson respond to that is a piece of analysis. So,
4 I'm just trying to come up with a topic that we're
5 thinking about tackling and which one of the many lists of
6 items fall under that category.

7 What I've also heard is now we have another
8 category of allocation. And should we tackle the
9 allocation issue? Which is just as I've been saying,
10 National Standards kept popping up and Working Waterfronts
11 and all those issues, now what we're talking about is
12 National Standard 4 and is there a way that the agency
13 could be giving better direction on National Standard 4.
14 Is there a way to provide greater clarity on what's
15 considered and what's not when you're evaluating fairness
16 and equity amongst the various stakeholders? What would
17 that look like? What mechanisms can we discuss?

18 And then we'd have to figure out, as a body, do
19 you start that exercise with the Rec Fish Committee and
20 then bring it to MAFAC as a whole recognizing that that
21 will create some disputes within MAFAC? And that's what
22 we're here for. We're all stakeholders bringing our
23 perspectives to discuss.

24 So, I've heard allocation put out there. I see

1 another item to go under climate change. I think we need
2 to address the issue of confidentiality, whether we want
3 to tackle that one at all or not. And is there a sense?
4 And then I'm hoping with those three markers put down and
5 whatever discussion we have on those three then we can
6 take our lunch break.

7 So, Phil?

8 MR. DYSKOW: I don't want to speak for Ken but
9 we did have the discussion prior to his departure. I
10 think if we can address that one issue on the rec fishing
11 side that would be the issue we would like to see pursued.
12 And just as an aside on -- there are four Rec
13 Representatives on this MAFAC Committee. We have learned
14 an awful lot about aquaculture. We have learned an awful
15 lot about Working Waterfronts and other things which is
16 very beneficial to us as far as understanding a bigger
17 picture. I think it's appropriate in the future to really
18 focus on this issue because it is the thousand pound
19 gorilla that I confront and you confront and you confront
20 every time we talk to our constituent base.

21 MS. BONNEY: I guess my only -- I hear what
22 you're saying and I guess I'm -- from the Council that I'm
23 in there are so many allocations that especially because
24 we have so many catch share programs and whatnot that our

1 Council would not be doing anything else but revisiting
2 allocations. And in most cases it's not a rec issue
3 versus a commercial issue so much. And so, in my
4 experience so far is when they decide to revisit an
5 allocation they just do it.

6 So, I don't know if it's so much about number 12
7 which you've got to review every three years or five years
8 or 10 years or whatever but more of your number 13 and 14
9 on your list which is really looking at methods.

10 MS. LONGO EDER: One of the overriding or
11 continuing messages that I heard through the conference
12 was, and again I'm not sure exactly how to define this
13 term, but about devolving governance. And I interpret
14 that as have NOAA do and provide the structure about what
15 they do best and yet continue to defer to the Councils, to
16 recognize the importance of local and regional management
17 as the Councils are trying to do their work within the
18 framework of MSA.

19 And I think this is particularly true relative
20 to allocation. And it also illustrates what I mentioned
21 earlier that we have to be aware that there are some
22 issues that are being agenda driven from the conference.
23 And I would say that to mandate review of allocations or
24 for MAFAC to do down that path, we have the experience in

1 the Pacific Council where as Julie said allocations have
2 taken place in various fisheries, in various programs in a
3 way that if you come back in to say this is a mandate from
4 MAFAC to NMFS to the Councils, you're then prioritizing
5 their workload in a way that may not be constituent
6 driven, issue driven and you're not recognizing the
7 regional needs.

8 There may be regions where these issues need to
9 be brought forward but I hesitate to say that that's a
10 consensus activity where I would see MAFAC moving toward.

11 MR. RIZZARDI: Okay. I want to try to avoid us
12 having a discussion of the merits of the issue and getting
13 into the weeds of the issue. I think that's where we are.
14 It's clearly in my mind an issue that's been flagged as
15 important --

16 MR. HOLLIDAY: It's going to come up.

17 MR. RIZZARDI: The Recreational Fishery Group is
18 ambitious to tackle the issue. I understand that as well.
19 I think it's also clear, if you're sitting on the Rec Fish
20 perspective that you're going to have some disagreement
21 and we're going to have to work our way through it. And
22 that's fine.

23 And I'm also going to point out MAFAC isn't
24 making an allocation decision. What we're talking about

1 here is trying to identify tools and factors that should
2 be considered when the Councils make their allocation
3 decisions. All right? So, there's an important
4 distinction. And what we're talking about potentially is
5 fleshing out a little bit and elaborating a little bit on
6 how National Standard 4 is implemented. And that seems
7 reasonable. Mark?

8 MR. HOLLIDAY: So, I'm not -- just a point of
9 information. So, at the CCC meeting this morning
10 allocation report was discussed. Sam's going to be coming
11 back to our meeting this afternoon. So, I think he has
12 another perspective of that. This is an important policy
13 question that's in front of NOAA from that policy advice
14 perspective regardless of what the specifics of 12, 13,
15 and 14 say I think this is an issue that NOAA's looking
16 for help on.

17 It's been an issue in front of the Councils now
18 for a year and a half and so as an advisory board you may
19 ask Sam what his perspective is on its relative priority
20 to get some perspective from this group.

21 MR. RIZZARDI: All right. Liz, can you give a
22 little -- Columbus?

23 MS. HAMILTON: And I'm going to be brief too
24 because I don't think it's about prescribing that you

1 will. I think it's about setting a checklist that the
2 Councils look at every five years, four years. So, and it
3 will -- everything's a Council decision and the standards
4 are about how Councils make their decisions. So, yeah, I
5 don't want it to -- anyway, that's enough said.

6 MR. BROWN: Another thing that I think got lost
7 in the weeds and Jim and I both mentioned it is taking a
8 look at the migratory bird regulatory framework as a way
9 of looking at some other possibilities to help streamline
10 the fishery management process.

11 MR. RIZZARDI: Preapprovals and stuff. Okay, so
12 we've gotten through the first three sessions. We're
13 going to need to accelerate when we come back from lunch
14 break how we go through the others. And I'm going to ask
15 people, think about when you're getting ready to do your
16 reports out, how can you identify for us the highest
17 priorities that came off the list and how do you think
18 MAFAC could engage in those exercises. And also think
19 about where it could fit within the structure of MAFAC.

20 I've tentatively got issues here of Ecosystems
21 tackling interjurisdictional climate change, of Commerce
22 tackling aquaculture and National Standard 8 and of Rec
23 Fish tackling allocation and National Standard 4. All
24 right? So, those are some priorities that I've

1 identified.

2 MS. LOVETT: I also, from the conversation I had
3 noted investments and permitting related to aquaculture as
4 something I thought but maybe I was wrong.

5 MR. RIZZARDI: Yes, I said that. Yeah, Commerce
6 is tackling aquaculture and National Standard 8.

7 MS. LOVETT: Oh, I'm sorry.

8 MS. MORRIS: Can we leave our expensive stuff
9 here?

10 MR. RIZZARDI: Is the room secure? Okay, it is
11 12:39 let's resume the meeting at 1:45.

12 (Recess)

13 MR. RIZZARDI: Okay, so we'll call the meeting
14 back to order. We've got enough people back in the room
15 here, so. Sam Rauch has come back to join us and Sam for
16 your benefit we've spent the last chunk of time walking
17 through some of the findings that came out of Managing
18 Fisheries 3 and trying to identify things that could be
19 priorities for MAFAC to tackle through our Subcommittees
20 over the coming months.

21 And the last item that we were discussing was
22 allocations. And the issue has come up that some of the
23 regional Councils have been looking for some help and
24 support and some guidance on how to do allocations within

1 the Fishery and looking for some consistency in their
2 approaches. And I understand that you had a big
3 discussion of this with the CCC and with the Council, so
4 we'd love to hear what you have to say before we move on
5 with the next piece of Managing Fisheries 3.

6 MR. RAUCH: Thank you, Mr. Chairman. So, at the
7 risk of derailing your agenda cause this argument tends to
8 do that, I will give you a little update on how we're
9 working with the CCC on this.

10 So, this issue is not new for us. Councils do
11 allocations all the time. And oftentimes this is thought
12 as rec commercial issue but it's not a rec commercial
13 issue only. There are allocations obviously between rec
14 and commercial. There are allocations amongst commercial.
15 I've got Senator Schumer all the time talking to me about
16 summer flounder and what the allocation his State should
17 have versus other States. I've got people in Alaska
18 talking about allocations in terms of absentee fishermen.
19 Should owners be on board and be allocated some way to
20 deal with that. I got people who have subsistence rights
21 who believe that they are entitled to an allocation.

22 Certainly the recreational commercial is the
23 most vocal of all these issues but we should not think
24 about it as that's the only one. The real issue in

1 allocation it seems to me is how you ensure that whatever
2 the allocation is, is the allocation that we need today
3 given the best interest of the country. And I believe
4 that there is an obligation in general to look at all of
5 your management measures at some point in time to make
6 sure that they still are vibrant and meet our needs. Not
7 just the allocation but that's one of them and that's a
8 significant one.

9 So, we have discussed with the Councils. And
10 let me just say, in addition to that we have two policies
11 or policy guidance documents which encourages just that
12 viewpoint. We have a catch share policy which talks about
13 reviewing the allocations periodically to make sure
14 they're fresh and vibrant and we have a recreational
15 fishing action agenda, I think I got that right, which
16 talks about it in very similar terms. All under this idea
17 that there needs to be a mechanism to review and refresh
18 the allocations but I would argue it's broader.

19 In order to facilitate this discussion we've
20 been having with the Council Chairs over the course of
21 several years actually, we hired a contractor, George
22 LaPointe, former Director of Maine Fisheries in Maine, to
23 review a number of the various stakeholder views on
24 allocation and provide us some guidance on a way forward.

1 And we have done that. I will tell you his report is out.
2 We can provide it to MAFAC. It's public.

3 He has five main conclusions that are his, that
4 are not ours, that are his for us. And I will share them
5 with you right now. Tell me if you've heard this before
6 this week. Number one, improve stakeholder engagement not
7 just in the allocation process but broadly but in
8 particular focused on allocation. Number two, improved
9 biological and social science research. Number three, and
10 this one I think is the most compelling, create a
11 formalized review of all allocation decisions. Right?
12 Have you seen that one? Number four; create a compilation
13 of allocation decisions with lessons learned. That's more
14 of a guidance document so that we can help that. And
15 number five; provide guidance on general issues to
16 consider when making allocation decisions.

17 So, a lot of that is very similar. In my view,
18 some of that's easy to embrace as a concept like improved
19 stakeholder involvement, better science, that's great.
20 Some of that's a resource issue. How do you actually do
21 those kind of things? Some of them like this number 12
22 and his number 3 which are basically identical, the
23 wording's a little bit different, that's a little bit more
24 complicated. And we presented that to the Council, the

1 LaPointe Report has been out and we talked to the Council
2 in February. The Council tasked us to come up with ideas
3 of how to do this in some very preliminary ideas.

4 And we talked about the easier, there's a spider
5 coming down right in front of me, that's kind of
6 interesting. Josh? There's one right -- it's on the
7 table. Other duties as assigned. It's a little
8 distracting.

9 All right. So, I think the Councils
10 legitimately are struggling with what to do with this
11 because while we have been saying there was a need to be
12 fresh and updated and I forget the term. I think you
13 presented it but I never can get it quite right about old
14 decisions or the past. And I tried to paraphrase it in my
15 remarks but I firmly believe that. I think the Council is
16 struggling.

17 What they are concerned about are a couple of
18 things. One is, a lot of these allocations decisions took
19 a lot of time and effort to develop and will take time and
20 effort to even analyze for change. And so, there's a very
21 real workload consideration about that and they're
22 concerned about mandates to say you have to do X by X
23 particular time because that will usurp their agenda. And
24 I think there needs to be some sensitivity to that.

1 There is a concern about investment backed
2 expectations. There are a lot of people for better or
3 worse who have planned on and have business plans and
4 arrangements based on the allocation that we've got now.
5 And the one thing you can say going into the allocation
6 decision is you don't know where it's coming out. People
7 think they maybe benefit from an allocation review but
8 they may not. And that's going to be quite contentious.
9 So, there are people who are invested in the status quo
10 who don't want to see the change in status quo.

11 I am arguing that all that aside, just because
12 it's hard doesn't mean we can't do it and shouldn't do it.
13 And I think we have an obligation to do it. I don't
14 believe that right now in the Magnuson Act there's that
15 obligation as specific as that. But I think there is a
16 generalized obligation to make sure what you're doing is
17 in the best interest of the country. And the other thing,
18 they don't want to create a situation where if they do an
19 allocation fight one year they're just going to do it
20 again the next year. There needs to be some spacing.

21 So, they are concerned but I think they've heard
22 just like everybody else has heard that this is a major
23 issue. And I hope they've heard that it's not just a
24 recreational commercial issue but it is a broader issue.

1 I heard it in many different ways to go about that. What
2 we decided to do at the CCC or what they decided, I'm not
3 actually a member of the CCC. We're not. We are just
4 invited guests.

5 What they decided to do is we had proposed to
6 deal with one of the recommendations on a report, a
7 summary of all the allocation decisions that have gone
8 forth and looking at the decision-making factors in that
9 it's not going to be a value summary. We're not going to
10 say and therefore you should do this. But it is going to
11 say here are all the allocation decisions the Councils
12 have done. Here are the factors they considered. Here's
13 how it happened and I haven't seen that. We expect that
14 in the late summer but there are an awful lot of
15 allocations. Councils do allocate all the time. They may
16 not be doing the ones that people want but they do do
17 this.

18 So, that's coming out late summer. We are going
19 to give that to the CCC. We can give that to whomever.
20 We had asked on the science one about improving, how did
21 we phrase it, improving biological and social science
22 research. We have made a substantial investment in social
23 science and biological research relevant to these
24 questions. The budget, as we've explained, hasn't helped

1 that because we've had to retract here and everywhere
2 else. If we get the President's '14 budget we will make
3 more investments.

4 But the question is rather than just saying
5 improve biological and social science research, can we get
6 a little more specific as to what would facilitate the
7 Councils in being able to make these allocation decisions.
8 Cause it's one thing for them to have the will but if they
9 don't have the tools, we may not get a better decision
10 than what we've got now. The Councils do have a national
11 SSC under the Councils which meets occasionally on big
12 issues.

13 NMFS asked that they task this one to the
14 National SSC. The Councils didn't say no. They've yet to
15 say yes. They want to see the terms of reference which
16 we'll give them and then I expect them to agree. We
17 talked about better ways to improve stakeholder engagement
18 but there's not a clear mandate path for it. I view that
19 as a general not an allocation specific issue. That's a
20 general issue on communications.

21 The biggest issue was this formalized review
22 which they are not prepared to agree to yet although I
23 think that they agree something needs to be done. They
24 are struggling with how to do that. Their hope is that as

1 we go into the next series of CCC meetings when they have
2 a chance to digest the findings of Managing our Nations
3 Fisheries 3. They can more clearly grasp with that
4 mandate but there is a wide range of views among the
5 Council as to whether they would be willing to accept
6 something like this or something else that would allow for
7 allocations to be reviewed or not. I mean, frankly, there
8 are Councils that embrace this idea and there are some
9 that don't.

10 And then on the other one which is provide
11 guidance on general issues to consider when making
12 allocation decisions, there's a range of things we could
13 do there. We have, in the past put out, we did this for
14 the catch share policy, we've done this for other
15 policies. When making allocation decisions here are some
16 things that you should consider. Here are some tools that
17 are available. When looking at what's in the best
18 interest of the country, make sure you consider upstream
19 effects, so not just the value at the dock. Those kind of
20 general guidance which would not mandate any particular
21 action on the part of the Councils but gives them a sort
22 of structure to look at that.

23 The Councils have benefitted from that in the
24 past and I think are supportive of us doing that in the

1 future. That could go so far as to say when you're doing
2 a best interests of the country analysis here is the
3 formula you should use. And here's how you could do that.
4 And I've heard some interest in that. That would be a
5 much more intensive process. I'm not sure you could get a
6 one size fits all kind of thing but you could make some
7 progress down there. And the Councils generally do not
8 support any option that has NMFS telling them what to do.

9 So, I didn't get a lot of support from them for
10 that. But it's not that they don't support a more
11 consistent way to go about it. They just do not want us
12 to tell them. So, we didn't make a lot of progress there
13 although I do think there is some support for the first
14 kind of guidance document from us. That's where the
15 Councils are.

16 I am arguing as I have been arguing for two
17 years for them that they need to embrace this as a Council
18 problem. I think I'm getting there on that but it's slow.
19 There are legitimate concerns about the workloads this
20 would entail. So, that's the report from the CCC meeting.

21 MR. RIZZARDI: No, not at all. Thank you, Sam.
22 We appreciate the update and what you've clearly
23 demonstrated is that this is a major issue. That there is
24 a stakeholder community that needs to get engaged in this,

1 it's not simply commercial or rec, it transcends that.
2 There are lots of issues the community and the subsistence
3 issues and it's something that we need to be tackling as a
4 nation. And to the extent that MAFAC can provide
5 constructive policy advice in the process we should.

6 Now, how, when, that's all what we'll have to
7 work our way through but questions for Sam? Comments?
8 Phil?

9 MR. DYSKOW: Thanks, Keith. I missed the first
10 part of this. Did you have any discussion about a
11 methodology to transfer share? Let me give you an
12 example. This is a theoretical example. The State
13 Tourism Board of Florida might decide that the
14 recreational value of red snapper is such that they would
15 like to buy some share from the commercial sector. Is
16 there a methodology that allows that to at least be
17 discussed?

18 Okay, I have a second part. But then the second
19 thing I heard you say that I really agree with and I don't
20 know that other people would. I really think there are
21 regional differences and making these decisions -- I'm
22 talking specifically of rec versus commercial. There are
23 regional differences and having some regional flexibility
24 is probably a very good thing. We don't want to imply

1 that the pollock fishery in Alaska has the same problems
2 as the Gulf red snapper industry. I mean very different.

3 MR. RAUCH: So, on the first one we did not in
4 the CCC have that discussion. But that is out there. One
5 way to avoid an allocative decision is to have a market
6 based allocation where the highest price -- but then you
7 have to have things that can be traded and people that can
8 trade. That implies catch shares which has its own set of
9 political baggage and that. We did not have that level of
10 discussion there.

11 I've heard that many times with particularly
12 cross sector trading with the recreational sector, the
13 idea is supported but the question of who would buy, how
14 would buy creates or you know, whether you lease or give,
15 that creates a lot of issues because recreational is not
16 the same kind of permit and quota share that other people
17 have on an individualized basis. We did not have that
18 discussion.

19 On the second one about regional differences,
20 there are a lot of regional differences, right? The
21 people in the Gulf think this is a very important issue
22 that we need to tackle. People in Alaska which have
23 enormous money wrapped up in the allocation system that
24 they've got now, not all that interested in tackling

1 allocation. And in fact, that's there the most I wouldn't
2 say opposition but concern, because there is some and it's
3 not the recreational people there. It's amongst -- they
4 don't want to refight the battles amongst the commercial
5 people.

6 And so, they're very concerned about a mandate
7 that would force them to refight those battles. And
8 there's a lot of big money, you know, big industry up
9 there that are out there. So, but you're absolutely right
10 in terms of regional differences.

11 I think the allocation issue, what is uniform is
12 we need to make sure whichever region we're in that the
13 Fishery Management Plan we have right now is continuing to
14 serve our needs today. But that doesn't mean that what is
15 good for the recreational folks in the Southeast is good
16 for people in Alaska.

17 MR. RIZZARDI: Julie.

18 MS. MORRIS: So, when I was on the Gulf Council
19 we had an Allocation Committee and we developed principles
20 that we drew from the National Standards on how allocation
21 should be considered and we also came up with some
22 methodologies, alternative methodologies to consider.
23 That it doesn't seem like anybody's using that right now
24 in the Gulf Council and I think they may not have gotten

1 to the point where they've decided to go ahead with those
2 allocation decisions. But I'm a little out of touch with
3 that.

4 So, taking a look at those since the pressure
5 for this is coming from the Gulf Region, the reallocation
6 from commercial to rec, taking a look at those might be a
7 useful starting point. We could look at them at MAFAC if
8 you want to do this as a MAFAC project.

9 MR. RIZZARDI: So, Sam, I guess a question for
10 you. We've had some success with the ESA taskforce method
11 and having MAFAC sort of take a leading role in helping
12 issue forward and then getting Council engagement, you
13 know something we might want to think about as a group is
14 can we adopt that sort of approach to the allocation
15 issue? I mean obviously there's a lot of interest.

16 MR. RAUCH: You'd have to get the Councils to
17 agree.

18 MR. RIZZARDI: Right.

19 MR. RAUCH: The Councils are still struggling
20 with whether to adopt this as something they want to deal
21 with. I think before Managing our Nations Fisheries 3
22 they were quite happy to just let us do this on our own
23 and have whatever success we could on an individual
24 Council basis. I think they've heard the message but they

1 have yet to agree. So, the ESA taskforce came because the
2 Councils wanted to be involved and concerned and welcomed
3 any avenue to get at us. I would love to use you to help
4 do the reverse but I'm not sure it works that way.

5 MR. RIZZARDI: So, let me suggest MAFAC may want
6 to step into the space and assert some leadership here but
7 the point that we could be starting with is that it's
8 discretionary. You know, we could be assembling some
9 advice that would be useful tools for Councils in the
10 event down the road they choose to be undertaking
11 allocation decisions. And maybe we start with what the
12 Gulf did and we get a team of our folks together and we
13 start talking about, well, these are the types of things
14 that should be considered in allocation decisions.

15 And then knowing that MAFAC is tackling this
16 issue we invite the Councils to participate. And if they
17 choose not to it's up to them. And it's not like anything
18 we generate is going to be a mandate. We're not going to
19 be able to tell the Councils you must do something. But
20 what we can do is try to be helpful and to create a
21 document that Councils could use in the future when the
22 pressure finally gets high enough that they're forced into
23 the point of needing to revisit the issues. And then
24 they'll be able to turn to those MAFAC generated document

1 which may or may not have their involvement as well.

2 MR. CORBIN: Now, I realize we're talking about
3 allocation and during the conference recreation and
4 subsistence were sort of used in the same sentence and
5 subsistence in an important issue in the Pacific Islands.
6 Is it part of the discussion on allocation within the
7 agency as well?

8 MR. RAUCH: Subsistence is one avenue in which I
9 think we need to continuously look and see whether our
10 allocation decisions make sense. We, in general, do not
11 have subsistence quotas or good subsistence definitions.
12 The Western Pacific recently did one for the monuments
13 which I think is a good model going forward.

14 I think that this -- one of the clear things I
15 want to get out of Managing our Nations Fisheries 3 is an
16 idea for an approach to subsistence. I think that it's
17 not just a Western Pacific issue. There's clearly some
18 tribal issues, there's some Alaskan issues. I think you
19 can deal with it in certain manners but it's something I,
20 frankly, would like to see out of any reauthorized
21 Magnuson Act is a better treatment of subsistence.

22 It is an allocation issue in that anytime you're
23 carving up an overall quota and allocating part of it,
24 that's allocation, right? It's not what's been driving

1 the discussion right now. But a lot of the times, I mean
2 part of the problem with subsistence issues is they don't
3 drive the discussion and sometimes they should. And so, I
4 think that it is part -- I view this as part of an
5 allocation. I mean if you looked at what decisions we
6 made in the Western Pacific today, they might be different
7 than what we made 20 years ago based on what we understand
8 are the subsistence needs today.

9 And subsistence may not even be the right term
10 but I think we know what we're talking about there. So, I
11 see it as part but it clearly hasn't driven the agenda
12 like the recreational commercial split.

13 MR. RIZZARDI: Liz, you had a hand up? All
14 right, any other discussion that needs to happen now or
15 can we try to plod forward? Dave?

16 MR. WALLACE: At some point, you know, we're
17 going to get into ecosystems management and when you get
18 into ecosystems management then there's going to be
19 another very large, powerful community that says we're
20 going to save a whole bunch of these critters for the
21 other critters in the ocean. And if you think that this
22 is complicated wait until we get into that because now we
23 are dealing with an unknown and what's the reliance.

24 All those critters are alive today without

1 having their food source or sources be protected. But at
2 some point, people are going to start putting percentages
3 on those which has never been done before. And there are
4 a lot of them and they are very powerful.

5 MR. RIZZARDI: Sam?

6 MR. RAUCH: So, I agree with this. I mean I
7 think that this underscores the point that the Councils
8 deal with allocation all the time particularly with like
9 climate change. So, with climate change even before you
10 deal with protecting forage fish or ecosystems, climate
11 change, I've got fish populations that are moving, right?

12 And so, what made sense in an allocation when
13 the populations were relatively stable may be vastly
14 different now that I've got red snapper going up and down
15 the coast of Florida or I've got fish moving north on the
16 Atlantic Coast. There is a need to do this and the
17 Councils do do this. The Councils when they do their
18 fishing management measures most of them have an
19 allocative effect in some manner. If you close an area
20 you have an allocative effect.

21 So, virtually every fishery management action
22 has some allocative effect. And they look at allocation
23 all the time. I think that's what our report is going to
24 end up saying. I haven't seen it yet but I would be

1 surprised if there aren't an awful lot of allocation
2 issues. There are some tools that they need. Many times
3 they look at it in an isolated set of parameters based on
4 the fishery at issue there. But as you mentioned there's
5 a broader set of ecosystem parameters. There's a broader
6 set of social parameters. That's part of the need for the
7 right tools to properly analyze the full effects of your
8 decision.

9 But I don't want to leave the impression that
10 the Councils aren't allocating or that that kind of
11 decision, which I agree has to wait for this, the Councils
12 will tackle that as they need to tackle it. And my
13 struggle with the Council is to have them understand that
14 they do do allocation decisions. And when they do it they
15 just need to be open about it. And then there's some that
16 they have just let sit for a long time that they really do
17 need to get at.

18 MR. RIZZARDI: Okay, Julie, last comment.

19 MS. BONNEY: Last question is that I guess but
20 in terms of the boxes that we think of, in terms of
21 reauthorization and Magnuson, I don't think I'm hearing
22 that we really need anything there. It's more of guidance
23 documents and policy discussions to move this issue
24 forward?

1 MR. RAUCH: So, the Council has the ability
2 right now to review their recreational and commercial
3 allocations every whatever X number you want to put in
4 there. They could do that now. But, or that, but they
5 don't or at least they don't admit that that's what
6 they're doing. I think the issue here is is the Councils
7 general, which is normal and expected, bent to put off
8 difficult decisions until they're forced to deal with it.
9 Is that okay or do you want some more explicit directive
10 which may well have to come from, if it doesn't come from
11 them and they're struggling. So, they made decide this on
12 their own and I think that they're sensing that if they
13 can embrace this on their own they can avoid Congress
14 telling them what they have to do.

15 But if that progress is not being made does
16 Congress need to tell them to be more proactive in this?
17 So, I do think that it certainly could be dealt with
18 without congressional intervention. But the question is,
19 is it going to be?

20 MR. RIZZARDI: Okay, so it is now 2:30. We've
21 dug into allocations pretty good there and gotten an
22 understanding of how important this is. We have six
23 topics left to work our way through from Managing
24 Fisheries to try to identify big issues. We've got about

1 90 minutes to do it. So, that gives us about 15 minutes
2 per topic which is doable if we can stay focused on or it
3 gives us about 15 minutes per topic and it's doable if we
4 stay focused on what's the top priority and where should
5 we be sending our resources.

6 So, I guess the next one on the list was Forage
7 Fish Management Session 2, Topic 2. Patty and Dick.

8 MR. BRAME: Patty and I have talked about it and
9 they're not -- there's a lot of it doesn't lend itself it
10 to maybe one or two would lend itself to something for
11 MAFAC to dig its teeth into. I mean really the argument
12 was is how much is enough when you're talking about forage
13 fish. It was striking to me that the Pacific Council, if
14 they were cooking with gas the Mid-Atlantic Council was
15 just starting to use flint tools and the Gulf and the
16 South Atlantic are rubbing sticks together and the
17 Caribbean hadn't gotten out of the mud yet.

18 So, there is a wide disparity and that's
19 something we might think about. There's a wide disparity
20 of attention to this issue. But Patty had -- she grouped
21 them very nicely into a couple of different things.

22 MS. DOERR: So, they all seemed pretty specific
23 and I grouped them into about four different items. So,
24 I'm not going to run down one by one. But there seemed to

1 be the consensus, I'm going to use that word, within the
2 room that there are tools within Magnuson-Stevens Act that
3 allows for the management of foraged fish and those are
4 being used by the Councils to different degrees as Dick
5 had mentioned.

6 But there was the mention of whether or not
7 there was a recommendation to have a new National Standard
8 focused on forage fish which sort of also is related to
9 our National Standard for ecosystem based management.
10 That is not something I think we necessarily would want to
11 delve into.

12 There was the repeated a lot of those
13 recommendations are -- speak to the repeated need for more
14 science behind the management, behind the ecosystem models
15 that are used within some of the management plans life for
16 menhaden and the need for more science and more models but
17 then also simpler models. It's a very science and
18 technical issue. And so, again, I just can't -- unless we
19 want to delve into what those models should look like and
20 what is needed for those models, I don't see a role for us
21 there. I don't think we have those expertise.

22 And the other issue was whether or not to allow
23 for new fisheries to emerge, forage fisheries emerge until
24 there is enough data. So, which that's a possible area if

1 we want to sort of craft some recommendations on sort of
2 maybe the minimum amount of information needed before a
3 Council allows for a new forage fish fishery. But I
4 personally have, I feel as if they have that sense and
5 they would know what they would need to put into that and
6 so, I don't think it's something that we would necessarily
7 have too much to say on.

8 So, those are sort of the big buckets which are
9 sort of all covered in some form or fashion. So, there's
10 just nothing that jumped out to Dick and I about sort of a
11 high priority. It's important to manage forage fish and
12 but the big question is how much should be left in the
13 ocean for its role in the ecosystem. And that's a big fat
14 scientific question that I don't think we have the ability
15 to answer.

16 MR. RIZZARDI: Ted?

17 MR. AMES: Yes. I would for one, like to see
18 number 3 in because superefficient forage base, a forage
19 fishery can awfully unsolder fisheries for predator
20 species. And I think that we should be at least make the
21 attempt to compare the impact of that fishery on others.
22 It's too bad to trade one fishery for another. There's a
23 happy medium and OY isn't compared with and ACL decisions
24 aren't compared then we could be digging a hole for

1 ourselves.

2 MS. DOERR: I don't necessarily disagree. That
3 seems like sort of would be a position statement for
4 whether or not MAFAC would support that. And we can have
5 that discussion and take that position statement but -- to
6 me it would be a medium priority.

7 MR. RIZZARDI: I'll just point out the language
8 says explicit consideration. So, are we talking about
9 amending the MSA to make that a prong? Or are you talking
10 amending National Standard 1 to make that a component?
11 And at the end of the day, I mean it speaks for itself and
12 it's sort of a statement to the Councils that dear Council
13 you should be doing this and you have discretion to do it
14 already when you're setting your limits.

15 So, I guess it just begs the question of what
16 would MAFAC's role be if we were to do something
17 specifically on number 3?

18 MR. AMES: Point well taken. You can't force
19 the issue.

20 MR. RIZZARDI: Julie?

21 MS. MORRIS: So, I was a panelist here so I have
22 my own direct experience of the Sessions and so in the
23 Gulf of Mexico, menhaden is the harvested forage fish and
24 it's managed by the Gulf's State's Commission. And so,

1 there's very little communication between the Gulf Council
2 managing the fish that depend on the prey base and the
3 Gulf State's Commission that manages the directed fishery
4 of the forage species.

5 And so, I think there is something there. I
6 don't think it should be a MAFAC priority but I think that
7 there could be a best practice that got those two things
8 better integrated.

9 And then some of the science talks were talking
10 about the calculation of natural mortality for the forage
11 fish and for the predators, no for the forage fish. And
12 that is how the ecosystem role as prey gets incorporated
13 into the setting the catch limits for the forage fish.
14 And so, that's kind of a science issue. Is that the right
15 place to, if you're doing a stock assessment for a forage
16 species, is natural mortality the right place to be
17 plugging in the ecosystem prey function or should there be
18 a different way that that prey function gets plugged in to
19 the determination of the catch levels for forage fish.

20 So, that could be a kind of simple little
21 science issue but maybe not a MAFAC issue.

22 MR. RIZZARDI: Mark, you want to answer?

23 MR. HOLLIDAY: This is just to remind people
24 when we looked at the trigger questions there were a

1 couple of different things we were looking to do. The
2 first challenge was just getting on the table those things
3 that we wanted to pay some more attention to. But if we
4 pay attention to it, what would we do with it. So, were
5 there any particular policy questions appropriate for
6 MAFAC to consider and assess?

7 So, that means doing something with this and
8 trying to move it forward at the idea and develop it with
9 a strategy. And so, that's not what I'm hearing about
10 this particular one necessarily. But the question of the
11 findings presented at Managing Nations Fisheries 3 to
12 improve the outcomes, which of these findings does MAFAC
13 endorse as the highest priority or high priority for
14 action by NOAA and DOC. Or, somebody else.

15 So, there are two types of actions that we're
16 using to filter these things. We may not want to have a
17 Committee on this forage question but we think it's
18 important enough to opine that that was something that was
19 significant that should be considered by others. And
20 you're done with that. So, I'm just reiterating what we
21 talked about when we started this many hours ago.

22 MS. DOERR: I wonder if this is something within
23 the Ecosystems Subcommittee and we're working on I forget
24 what hours ago when we started that the first things that

1 we were looking at with the Ecosystems Subcommittee and
2 some flexibility when it comes to climate change. Whether
3 or not within that group there can just be a heading to
4 talk about if we want to highlight our support for a
5 particular forage fish management recommendations and just
6 have it within the context of that Subcommittee?

7 MR. RIZZARDI: Dave?

8 MR. WALLACE: Being the Chair of the Ecosystems,
9 I already have said to Mark that this whole section of 2,
10 1-3, actually all ends up falling in Ecosystems. And you
11 know, I don't know how we're going to deal with all the
12 issues that are in there but I guess since day before
13 yesterday when I was reading through all of this I said,
14 you know, I guess I need to start thinking about how we're
15 going to sort this all out. And then I asked Mark how
16 much staff time he had to work on it because you could
17 spend years on this just trying to deal with these issues.

18 And so, what we're going to try to do is get rid
19 of the -- and actually forage fish is a result of
20 Ecosystems. It's one of the tools but it's not one of the
21 core things that drive the system. And habitat and things
22 like that become rise in importance over just then how do
23 you allocate all these things to have ecosystem in balance
24 including the extraction by man? So, I won't get into it

1 but we're already thinking about it.

2 MR. AMES: I respectfully disagree.

3 MR. WALLACE: That's a shame.

4 MR. AMES: Surprise, surprise. Forage base is a
5 critical component. You can have the best habitat in the
6 land but if the prey isn't there neither are the
7 predators. I would opt for either having an SSC that
8 addresses these issues directly or in the next series if I
9 can find down on this thing, perhaps encourage
10 interjurisdictional collaboration on coming up with
11 strategies for solving it, number 11 in that series.

12 But I really feel it should be a part. Cause
13 this is not to eliminate prey fisheries but simply to put
14 a bound on it that isn't going to damage others.

15 MR. RIZZARDI: Okay. So, what I'm taking away
16 is I've added to 2.2 number 11 to the effort with the
17 interjurisdictional and 2.2 number 3 is another item that
18 we've identified as a potential NOAA priority. And it
19 kind of joins the efficacy of closures topic that we
20 talked about at length but didn't identify as something
21 that MAFAC was specifically going to tackle. So, I'm kind
22 of trying to keep track of those items.

23 So, I've got two of them so far that we've
24 identified them as NOAA priorities and then I keep trying

1 to put them under the categories of our Subcommittees that
2 will tackle the issue down the road. All right, any
3 further discussion on 2.2? Yeah?

4 MS. YOCHER: I'm just thinking back to something
5 that Michelle said with these not being consensus items.
6 And we're not really going into a great discussion of
7 these points here. So, if I understand you correctly what
8 you're saying is there are things that we would consider
9 --

10 MR. RIZZARDI: Right.

11 MS. YOCHER: -- making a recommendation from
12 MAFAC but we are not going to do that a result of this
13 discussion this afternoon?

14 MR. RIZZARDI: Right. Dave? Yeah.

15 MR. WALLACE: I guess the way I see it and I
16 hope I'm correct, we're just laying out the things that
17 are going to focus and then the Committees are going to
18 go, who and whoever wants to be part of the Subcommittees
19 are going to work on it, create sort of a position paper
20 or white paper for MAFAC then to modify as they see fit.
21 So, I see it as a multi-step process.

22 MR. RIZZARDI: I agree. What I was trying to do
23 was figure out if there are some items that using the
24 focus questions we can identify as something that we

1 believe is a priority and simply at the end of the meeting
2 be able to agree that those items which we're not tackling
3 but we do agree are priorities should be mentioned to NOAA
4 and we take an action and reach consensus. For example,
5 the item that forage fish should be an explicit
6 consideration in OY or the example that NOAA should
7 research the efficacy of closures. Those are two of the
8 items that were identified that we did not say that we
9 would tackle as a body but I was keeping on a list that
10 maybe at the end would be something where we would move
11 and agree that that's our recommendation that NOAA
12 consider those priorities.

13 But if that's not where the Committee wants to
14 be, then we don't have to be there.

15 MS. YOCHER: And I'll just say that's kind of
16 what I was getting at is I don't think we are there, that
17 we would be happy walking out of here at the end of the
18 day picking out some things that we would, as a Committee,
19 endorse. I mean, maybe I'm wrong.

20 MR. WALLACE: Well, if we want the meeting to go
21 on for the next couple of weeks we can walk out of there
22 but if we're going to leave by rush hour, we aren't even
23 halfway through the issues yet.

24 MR. RIZZARDI: Duly noted. Next topic.

1 MS. LONGO EDER: Just a quick comment, if I may,
2 Mr. Chairman, I think this, you know, you heard that the
3 Councils are going to consider some of the ideas that have
4 come out of Managing our Ocean's Fisheries and over their
5 agenda over the next months. And I would agree with the
6 issues being identified potentially for discussion but I
7 caution with a rush to making recommendations at this
8 point. And I think that that's very important because I
9 think that we do need time to digest it.

10 And even, I still hear a move to get
11 recommendations to Committees that have particular
12 interests in advancing or slowing or taking a different
13 tack on some issues. And so, some of where the issues get
14 assigned and how, you know, obviously shapes again some of
15 the results and the perspectives. And I think that I
16 would prefer to move more deliberately as the Councils
17 have said that they're going to do in considering the
18 results of what's come out of the conference.

19 And for my comfort level on some issues, on all
20 of these considerations that have come out, I think we
21 should move deliberately. Thank you.

22 MR. RIZZARDI: Heidi, can we move to the next
23 one? Thank you, Michelle, for the comment.

24 MS. LOVETT: This is the next one.

1 MR. RIZZARDI: 2.3 okay. Okay so this is the
2 integrating habitat considerations discussion. Dave?

3 MR. WALLACE: Yes, well, actually I have just
4 volunteered there were two other identified they were
5 going to participate and so not to get involved in the
6 discussion we had on another one where we had more people
7 in it than we thought. I'll wait and fill in. But I've
8 already given you my opinion we should high priorities of
9 1, 7, 8, and 10. Medium priorities 3, 9, and 12. Low
10 priorities for the rest.

11 And so, I rated them right off the bat.

12 MS. DOERR: What are the high ones?

13 MR. RIZZARDI: 1, 7, 8, and 10?

14 MR. WALLACE: Yes, 1, 7, 8, and 10. And the
15 consideration of making it a National Standard, you know,
16 when that was proposed the maker John Boreman did not --
17 neither supported it or rejected the idea. He just said
18 it needs to be considered and it has been considered as
19 far back as 10 years ago whether that should be an issue
20 or not.

21 And then number 7 is defined essential. What is
22 essential habitat? We used to think that the EFH was
23 essential fish habitat and then essential fish habitat got
24 added to the mix and so the whole ocean became -- habitat

1 of particular concern became EFH. And so, the whole issue
2 is if they swim there it must be essential, right? And if
3 land is not essential then 8, shifting EFH from single
4 species to multispecies ecosystem focused. And we might
5 as well address it cause that's the path that we're on.
6 And if we want to be taken seriously now we don't have to
7 subscribe to it but I think we need to address it and
8 ultimately the 18 of us get to decide what MAFAC's
9 position is going to be.

10 It can either be accepted by the administration
11 and the Councils or it can be rejected. But we'll just
12 put forth some kind of a document that addresses that
13 issue.

14 And then 10 is habitat research, ecosystems
15 research and habitat research. If we're going to start
16 making definite decisions on these kinds of things, we
17 have to have good science. We have to and they're very
18 complicated. And so, those are my high priorities and
19 that's just my opinion.

20 MR. RIZZARDI: Liz?

21 MS. HAMILTON: I was lucky to be here at the
22 conference with someone who I serve with on the Habitat
23 Committee at the Pacific Council and with all respect to
24 the Council, deep respect, I think our Committee feels

1 underutilized especially in our Council where so many
2 effects on the resource are non-fishing when you're
3 talking about salmon.

4 And so, at least she and I and others would like
5 to have conversations about how do the Councils better use
6 their Habitat Committee under EFH. What are the tools and
7 are they all doing a good job and could we do better?

8 MR. WALLACE: I actually have a note on the top
9 of this page that I didn't read when I went through it.
10 And that is that both it's too bad that Tony's not here
11 because he was actually a participant in this discussion
12 and he and I've wrote a thing on habitat. And I tend to
13 focus, because I serve on two Habitat Advisory Committees
14 New England and the Mid-Atlantic, and I think offshore
15 because that's what we talk about. And Tony keeps saying,
16 but you keep missing the point. We really need to go all
17 the way to the top of the mountain and start seeing that
18 fresh water run down the mountain.

19 And that actually has -- and NOAA's or the
20 fisheries strategic plans or NOAA's strategic plan, you're
21 the expert on that, says something to that effect. So,
22 and the National Standard and there was another one,
23 Council's SSC all were actually going to -- and then the
24 right of veto of the Councils for habitat inside the three

1 mile limit which, you know, the chances of that getting
2 through Congress with another function of superseding the
3 states is very low. But we also have the National Ocean
4 Policy which does exactly that.

5 It goes across the border. And so, how will
6 that be used in the future? Is it going to be used for
7 fisheries but it can be used against fisheries too.

8 MR. RIZZARDI: Ted.

9 MR. AMES: One of the most sobering realities
10 that we have to face is that for many fisheries single
11 species management has not worked well. It's been
12 uncomfortably unpredictable and the solution to it lies
13 not in this continued, let's not continue as business as
14 usual but let's examine the enormous amount of research
15 that's been done and currently being done that link
16 individual species with others.

17 Predator species like the sports fishermen like,
18 stripers and the list is long, depend on these inshore
19 concentrations of prey. At the same time, these prey
20 species play the major role in incorporating bioenergy
21 from the system into the biosphere so that we can maintain
22 large populations of fish. If we don't have credible
23 populations of them then the food that's needed for the
24 next layer of species is missing.

1 So, it has to be in there along with the
2 habitats that they frequent. Granted most of them or many
3 of them are pelagic and are not intimately linked to
4 substrates, particular substrates but others are. And I
5 think it's a missing piece. I think it's important that
6 we include it.

7 MR. RIZZARDI: Okay, so what I'm going to do
8 with the list of topics thus far and I'm adding this to
9 the list of things that will be referred over to the
10 Ecosystem Committee for subsequent consideration, and I'm
11 going to handle that the same way for all the topics that
12 we're identifying. And which Subcommittee will address
13 which subtopics that we've identified and then it'll go to
14 the Subcommittees for discussions. And you may decide
15 that you're going to do something with it and you may
16 decide as a subcommittee that you're not.

17 And then we'll try to schedule a conference call
18 for the summer and then we'll hopefully be able to make
19 some forward progress and have some sense of where we're
20 going to be for the fall meeting. All right, so I'm
21 adding these to the list.

22 Can we move on to the next topic or is there any
23 more on the EFH one? Because at the bottom I guess what
24 I'm seeing here is we are recommending establishment of

1 priorities for EFH implementation.

2 All right, Heidi, next one.

3 MR. HOLLIDAY: How are we doing on time?

4 MR. RIZZARDI: Fifteen minutes apiece so far.

5 So, Session 1, Topic 1.

6 MR. HOLLIDAY: Well, that was a half an hour.

7 MR. RIZZARDI: We tackled two. All right,
8 Session 1, Topic 1.

9 MR. BRAME: I didn't realize I was on. I mean,
10 I was actually on the panel but I didn't realize I was on
11 the review part of it.

12 MS. MORRIS: Yes, we added you when you weren't
13 here.

14 MS. BONNEY: That's how it works.

15 MS. LOVETT: Well, these were suggestions.

16 MS. BONNEY: Just to try to keep this narrowly
17 focused; really I think that what most of all the
18 different points talk about is the idea of flexibility
19 under the present ACL rules. So, whether it deals with
20 rebuilding or multiple year ACLs versus a point estimate,
21 what to do with mixed stock complexes for management in
22 terms of setting ACLs, what to do about stocks with poor
23 data, I think all of them based on what, I forget his name
24 now, the guy from NMFS that does the National Standard 1s,

1 help me out there Sam.

2 MR. RAUCH: Rick Methot.

3 MS. BONNEY: Rick Methot. He had a lot of -- he
4 was one of the panelists and it sounds to me that a lot of
5 those issues are going to be addressed in the National
6 Standard 1 review process that they're undergoing now.
7 So, to me it would seem like as we wrote comments on the
8 National Standard 1 in terms of some thoughts, in terms of
9 the 11 issues that they were going to revisit. So, I
10 would recommend that we just as that process move forward
11 that we stay in contact with that to see if we have other
12 opinions as the public review process moves forward.

13 And I think in terms of the rec issue which
14 looks at thinking about a different accounting mechanisms
15 for the rec, that goes into the flexibility box too. So I
16 don't know that that would, that could just be kind of
17 looked at in the overall review of the National Standard 1
18 guidelines.

19 MR. RIZZARDI: Dick?

20 MR. BRAME: I don't disagree but I do think that
21 the -- a different mechanism to how we manage recreational
22 fisheries has to be explicitly stated somewhere in my
23 view, it's that important. It can still be in how we
24 reconsider the National Standard 1 guidelines but it's a

1 burning issue and we need to come up -- better minds than
2 mine need to come up with ways to manage the recreational
3 fisheries in a different manner sustainably.

4 MS. BONNEY: I guess I'm struggling because in
5 the North Pacific we are already doing that. And so, for
6 the way the Halibut Rec Fishery is being managed it's
7 based on a piece count and then a size class. So, they
8 have what they call the ability to have a trophy fish.
9 And so, you just -- you can discard fish that aren't in a
10 certain size lot and then that allows you to get the big
11 fish.

12 They also have where you have to keep one that's
13 less than 32 inches and one that's larger. So, I would
14 encourage whatever area that you're having trouble to get
15 that Council to think creatively than assume that we have
16 to do it to force it in a different way. So, I don't
17 know.

18 MR. RAUCH: So, thank you for letting me
19 intervene a little bit. I completely agree as I said in
20 my comments on the stage that we need to figure out a way
21 to treat the recreational folks and recognize their
22 particular needs. But beyond that generic statement I'm
23 not sure what that means. I'm not sure how we should go
24 about doing that.

1 It does occur to me that we do have through the
2 auspices of MAFAC, a recreational subgroup, a working
3 group that might help us define what that means. And it
4 would be of interest to me to see within the statutory
5 bounds that we have now for National Standard 1, what that
6 would mean for them. And then if they want to go beyond
7 that, that's fine too but that would be beyond that but
8 what would that mean because I do struggle beyond that
9 generic statement to actually find a direction to go to
10 meet that need. I'm not sure what that is. And I
11 certainly would appreciate some guidance on that.

12 MR. RIZZARDI: Julie?

13 MS. MORRIS: Well, I would say that this
14 approach to addressing the uncomfortableness that's
15 occurring in the recreational fishery in the Gulf is more
16 promising than looking at allocation strategies. I think
17 if we could really focus on tools and strategies for
18 managing recreational harvest in a different way that
19 would help a lot. And so, I would put this at a higher
20 priority than looking at allocation.

21 MR. RIZZARDI: Phil?

22 MR. DYSKOW: I don't necessarily disagree with
23 you but I think if we're going to give an assignment to
24 the Rec Committee we should examine both. And then in the

1 dialogue of the full Council we can decide what would be
2 the most productive or useful direction.

3 MS. DOERR: I don't disagree with any of that.
4 I just worry about having these discussions focused on one
5 particular fishery. And that it is more of -- I recognize
6 that every region has different challenges and different
7 dynamics but I don't think having a discussion based on
8 one particular fishery is an effective use of our time and
9 it should be bigger picture.

10 MR. DYSKOW: Right.

11 MS. DOERR: And that whether the conversation
12 focuses around allocation or changes to ACL or how Rec is
13 managed is just part of a larger discussion.

14 MR. DYSKOW: I totally agree. In fact, by
15 definition we've said we weren't going to address regional
16 issues per se in the Council. So, I think it should be
17 broader and if it doesn't apply to some regions we can
18 make that discussion -- we can make that decision during
19 the process. But I don't think that any of the eight
20 regions would have zero involvement in that discussion
21 even though some would be much weightier than others.

22 MR. RIZZARDI: Are there other items in Session
23 1, Topic 1 that link up with this topic?

24 MS. DOERR: Number 5.

1 MR. RIZZARDI: Patty said number 5.

2 MR. BRAME: And 6.

3 MR. RIZZARDI: Mind you this was the panel that
4 Ken Franke was on, right?

5 MR. BRAME: No, the one I was on.

6 MR. RIZZARDI: Ah, okay.

7 MR. BRAME: It's the one I was on.

8 MR. RIZZARDI: Well, given that you were on it,
9 you know it cold. And it's certainly something that we
10 can identify and refer to the Rec Subcommittee for further
11 processing as what to do with it?

12 MR. BRAME: Yes.

13 MR. RIZZARDI: Okay. And that's where I'm
14 leaving it. So, certainly 1.1, 1 and 5 are relevant and
15 the Recreational Fish Subcommittee can at least take a
16 look at it and come back to MAFAC and report out as what
17 you'd like us to do.

18 MR. BRAME: And 6. Five and 6 are --

19 MR. RIZZARDI: Right.

20 MR. BRAME: -- like having a cake without sugar.

21 MR. RIZZARDI: Cooking with gas and cakes
22 without sugar. We're doing --

23 MR. BRAME: Get 'er done.

24 MR. RIZZARDI: Other issue to flag on 1.1 or are

1 we ready to move on to the next one? Okay, next topic.

2 MS. HAMILTON: Are you ready?

3 MR. RIZZARDI: Yes.

4 MS. HAMILTON: Okay, well, I just want to first
5 give my regrets for not being able to channel Manny
6 because if you guys missed him you missed something. It
7 was pretty fun. And then I wanted to bring forward one of
8 the notes and I think it was Mark that actually said this,
9 that preserving the past is not always the best path
10 forward.

11 And I think that's sort of the overarching theme
12 that this was teeing up. And Topics 1, 2, and 3 really
13 we've gone over and over and over again in the other
14 sessions which is about the benefits of cooperative
15 management and the communities working, stakeholders
16 working with the Agency for data gathering and the
17 benefits of relationship building and data gathering, all
18 that. So, I don't know if we can pass over that. And
19 actually I'm going to save you guys a lot of time I think
20 but I hope.

21 But I think 4, 6, and 7 are really kind of some
22 of the underpinnings of what's happening with all the
23 clamor over allocation and bringing data in. Is I think
24 that the subsistence fishing community and the

1 recreational fishing community are feeling as if the
2 management tools either misunderstand our needs, our
3 cultures and our economics and are not set up to address
4 those needs.

5 And so, I think that's what Manny was striking
6 on. And I believe that those are some of the key findings
7 from that time and then number 8. Let's see what did I
8 have about --

9 MR. HOLLIDAY: One more, Jenny. One more down.
10 Thank you.

11 MR. BRAME: Define subsistence fishing.

12 MS. HAMILTON: Right. Yeah, yeah, yeah. It's
13 back to that idea of and one of the things that Manny
14 struck on, there were a couple of things that he said that
15 stood out. One was just the idea that under Magnuson many
16 of his fishermen are actually lawbreakers and then also
17 just the fact that the economics of the protein value of
18 their fisheries is not quantified in any of the
19 consideration on processes.

20 And I think the recreational community would say
21 the same thing. There's never any discussion about
22 feeding, feeding our communities. So, that goes back
23 under getting the right kind of economic data into the
24 decision-making which I think fits with the whole

1 allocation model. And I think that's it.

2 You got anything you want to add to it, Henry?

3 MR. SESEPASARA: Yes. As Sam pointed out during
4 his presentation earlier that the subsistence fishery need
5 to -- they need a formal recognition in the Magnuson Act
6 because the Magnuson Act talks about the commercial
7 fishing and the recreational fishing. But we're in the
8 South Pacific, you know, we have a community that fish for
9 family needs. We're not talking about any dollar value of
10 this fish cause as one of the panelists pointed out during
11 this discussion, when the fish caught by the indigenous
12 people goes to the culture, culture used for family. And
13 you know, when you talk about family, I would say an
14 average mainland family you're talking maybe four or five
15 or six individuals.

16 But when you talk about families in our culture
17 community, you're talking about more than 200 people in a
18 family. So, when we have a culture activity there's
19 whether it be a funeral or a wedding or graduation party,
20 the whole extended family, we're talking about extended
21 family participating. And this fish when it's caught,
22 it's not sold. It comes to this culture activities and
23 you cannot put a value on this fish.

24 So, we need to include the subsistence fishery

1 in the Act. There was some talk of what would be the
2 definition of the subsistence fishery. As Sam pointed out
3 earlier the Western Pacific Council has already put in a
4 definition for our community. Basically because when the
5 National Marine Sanctuary and the monument, Ness Marine
6 Monument came down to take a portion of our fishing area
7 there, that's a culture fishing area that's taking away
8 from the community.

9 So, the definition for subsidiary fishery, right
10 now the Western Pacific Council only can encourage just
11 one community. I think we need to look into a better
12 definition that will cover more communities. Just like
13 Alaska have their native community up there too and maybe
14 somewhere in the Northeast Area too. So, I think we need
15 to get a better definition that would, I don't know if we
16 can come up with a definition that covers all the
17 indigenous community because I keep hearing the term one
18 size doesn't fit all.

19 But we're requesting that maybe we should look
20 into this and include the subsistence fishery to be
21 formally recognized in the reauthorization of the Act. I
22 would rate it that number 6 and 7 is high priority.

23 MR. RIZZARDI: Okay. What I'm also going to
24 note about 5, 6, and 7 that both of you have flagged, they

1 tie in very much with the allocation discussion. And then
2 looking at, I went back and I was looking at our bylaws
3 and our Committee assignments. And the purpose, one of
4 the purposes of the Strategic Planning Committee is to
5 review and comment on implementation of the MSA.

6 So, rather than putting the allocation, well I
7 recognize that the allocation issue is important to the
8 Rec Fish Committee. It's also important in terms of
9 subsistence and it clearly falls within the scope of
10 strategic planning. So, what I'm putting down in my notes
11 is all the previous allocation discussions that we've had
12 plus this set of numbers that we've had and identified and
13 referring that whole package as part of the allocation
14 discussion for the Strategic Planning Subcommittee. Does
15 that make sense?

16 I'm open to alternatives but --

17 MR. BROWN: Just to get a little clarity. I
18 thought that when subsistence was mentioned it really
19 referred more to the Native American Treaty Rights and
20 their hunting and gathering and so forth. But I'm sensing
21 that the argument or the discussion on subsistence is
22 moving into that other question of whether I go out and
23 catch and release or catch and fry.

24 And because if you move into that direction I

1 think that brings into the equation a really interesting
2 conversation.

3 MR. RAUCH: So, my take on this and Henry I
4 think already eloquently explained some of what it means.
5 Certainly the Pacific Islanders who don't have treaty
6 rights have a cultural indigenous need going back
7 thousands of years to a certain portion of the catch for
8 which they use which is not commercial and it's not
9 recreational. Subsistence may again not be the right word
10 but it is the word we're using right now for that kind of
11 thing.

12 And I think there is, my personal view is there
13 is a need to recognize that. There is a need to give that
14 some priority. It also clear that it's not just a Pacific
15 Island issue. I've got similar situations in Alaska which
16 they don't have treaty rights, they've got other kinds of
17 rights. But I've got local indigenous communities and
18 whether they're indigenous now, you know, they get kind of
19 mixed. But they need the fish to survive the winter.

20 That's a different kind of fishing than
21 recreational or commercial fishing. We heard there are
22 communities like on the coast of North Carolina that do
23 that as well. I don't know what the scope -- this is I
24 think here -- what is really the scope of that? I

1 understand there are people like the Pacific Islanders,
2 which I think are clearly in it. Are all the other people
3 in it? I don't know.

4 But I do think that we should reflect that there
5 are a certain subset of people in the United States or our
6 territories that rely on fishing not just as a commercial
7 enterprise, not just as a recreational enterprise but for
8 something somewhat more fundamental and they should have
9 some recognition. And I would support that. My problem
10 is I don't really know how you craft that definition to be
11 encompassing enough without sort of being restrictive.

12 But I do, I think this is broader than just
13 treaty rights. Although the treaty right people, they're
14 in this too. I don't want to diminish them or Michael
15 would get mad at me. But that's part of it, too. But
16 it's very similar but they don't have treaty rights. And
17 I think too often we think well the treaty right people
18 will -- the Pacific Northwest tribes because they've got
19 such profound treaty rights will take care of themselves
20 and we ignore the rest of them.

21 MR. BROWN: I say that because in my family
22 there are some people who would say, you mean you went out
23 there and you played with my food?

24 MR. RIZZARDI: Okay, any further discussion on

1 Session 3, Topic 1? Okay. Yes. We're getting ahead of
2 schedule though. All right, the next one, Heidi. Henry,
3 you were tagged on this one with Ken.

4 MR. SESEPASARA: I thought it was Session 2-1.
5 I mean Session 1, Topic 3.

6 MS. LOVETT: I'm getting to it.

7 MR. SESEPASARA: I really have nothing to add to
8 this except that what was discussed here is the unfairness
9 of the situation and our American fishermen versus the
10 foreign fishermen. I understand from discussion that our
11 fishermen, our U.S. fishermen are more regulated compared
12 to foreign fishermen who comes in and fish in the high
13 seas and they're not regulated and we are more regulated.

14 And this is, you know, speaking for American
15 Samoa our EEC is boxed in. We really do not have a 200
16 mile song in American Samoa. Just to give you a picture
17 of how we are located there, on the west of us, Western
18 Samoa is only 40 miles away from us. So, we have that 20
19 miles equilibrium on the western side. On the south side
20 of American Samoa is the Kingdom of Tonga which is about
21 300 miles. And then on the north side is 90 miles from
22 Tokelau. So, we are really boxed in there.

23 On the eastern side, that's probably the only
24 area that we have high seas which is Cook Islands. We're

1 about 400 plus miles between Cook Islands and American
2 Samoa. So, there's about a 50 mile high seas there and we
3 are under the U.S. flag fishing boats and our fishing
4 boats are regulated with the U.S. regulation we have. And
5 the foreign fishing boats come in that area and they can
6 fish without even worrying about any regulations there.

7 So, I think what Manny was talking about, we are
8 being regulated -- one Act under assemble is the U.S.
9 Coast Guard regulations that just went into effect October
10 16 last year. That restricted our boats from going
11 outside fishing without the safety equipment. Our vessels
12 are small vessels, 26, 28 footer catamaran fishing boats.
13 And putting a raft on top of that, it's going to be even
14 unsafe because it's going to sink the boat.

15 So, we are over regulated, that's how we look at
16 it. I think that's the point that Manny was trying to put
17 out there but I really don't have any other area there
18 were I can rank high priority based on just the issue that
19 there's we need to regulate the IUU fishing boats that are
20 bringing fish in to the U.S. Somehow should have some
21 kind of regulation to have some control on that.

22 MR. RIZZARDI: Julie?

23 MS. MORRIS: Can somebody explain number 8? It
24 seems like it's suggesting a very specific small amendment

1 to MSA but I don't understand what the effect of that
2 would be.

3 MR. RAUCH: I can explain that.

4 MR. SESEPASARA: I think there was a case where
5 a Chinese boat was sighted in the area there and in the
6 Act it just said vessel. Vessels, not vessel, it's a
7 term. So, they just take to put vessel or vessels just
8 that letter S makes the difference.

9 MR. RAUCH: Yes, so we have a process in the
10 Magnuson Act where if a country is engaged in IUU fishing
11 we can certify that country and that could potentially
12 lead to trade sanctions. We've certified that country
13 based on the action of their vessels, not their vessel.
14 So, if we only know of one vessel engaged in illegal
15 activity we can't certify that country. We have to have
16 at least two. That was the legal interpretation we got.
17 So, this issue with China and their vessel, that was only
18 one. It wasn't enough. So, this was a minor fix to solve
19 that problem.

20 MS. MORRIS: You know, I think everything in
21 these findings is important and should be supportive but I
22 don't think there's anything specifically in it that MAFAC
23 can dig in on.

24 MR. RIZZARDI: Moving right along. Any other

1 discussion on 1.3? Okay, next topic. Columbus,
2 rebuilding?

3 MR. BROWN: You know, number one I think was
4 picked up in a number of other groups but the whole idea
5 of revising the time requirements for species that live
6 very long generations. I think we should take a look at
7 that and make some statement. And number 4 there was
8 considerable discussion about the term over fish versus
9 whether or not we should change it to depleted or
10 something similar because the feeling was that you might
11 have those conditions and not because of some fishermen
12 but for other reasons.

13 So, I think that's something we should consider.
14 And let's see --

15 MS. YOCHAM: Does anybody know what the stars
16 mean? The asterisks?

17 MR. BROWN: No. Okay, yeah. And I think on
18 number 9, I think that's something that has been talked
19 about all over the place and I think it needs to be joined
20 in with the rest. That's it.

21 MR. RIZZARDI: Sam?

22 MR. RAUCH: If you choose to look at the
23 rebuilding timeframe issue, you should just be aware that
24 we had asked the National Academy of Sciences to look at

1 the scientific underpinning for the 10 years. And we had
2 hoped that they would provide their report ahead of this
3 conference but they didn't. It is still coming out so if
4 you do decide to take that on, I would encourage you to
5 examine that report when it comes out as some of the
6 context of that.

7 MR. RIZZARDI: So, of the discussions we've had
8 so far of things that would be referred out to
9 Subcommittees, can we fit any one of these three into the
10 existing tasks that we're trying to work on? For example,
11 the rebuilding question often comes up in the context of
12 impact on coastal communities and the Working Waterfront,
13 right? But it also comes up in the context of MSA
14 implementation. So, the question is where to put that and
15 which Subcommittee to tackle it?

16 Overfished and depleted, where to put that one
17 which is that could go to Climate Change because that's
18 kind of the context that it's been coming up is if you
19 have population crashes of a stock and it's not because
20 it's overfished, it's because climate change conditions
21 are causing it then maybe we need some other terminology
22 and some other mechanism for dealing with it. So, again
23 going back to my continuing effort to figure out what does
24 MAFAC do with it and what's our next step? And how are we

1 going to process this information? I'm trying to make
2 sure I have assignments.

3 MR. WALLACE: That one should go in Ecosystems.

4 MR. BROWN: I agree.

5 MR. RIZZARDI: Liz?

6 MS. HAMILTON: Are we talking about the
7 definition of changing the terminology from overfishing to
8 depleted?

9 MR. RIZZARDI: Yes.

10 MS. HAMILTON: Okay.

11 MR. RIZZARDI: So, Columbus flagged three, 1.2,
12 number 4, and overfished and depleted there's a volunteer
13 send it to Ecosystems. Then we have 1.2, number 1 with a
14 time for rebuilding and do we even want to tackle that at
15 all since the National Science Foundation is doing so?
16 And 1.2 number 9 and the quality of our stock assessments
17 and where to park that issue.

18 MS. HAMILTON: May I add a point to that? There
19 are stocks that we've done overfishing reports on in the
20 Pacific Council that the depletion wasn't anything to do
21 with fishing. So, it's always funny, we're sitting there
22 doing overfishing reports only because they didn't meet
23 spawning escapement three years in a row. It triggers an
24 overfishing report and so.

1 MS. DOERR: I would actually think that the
2 discussion on that would -- the overfish versus depleted
3 would go into the Subcommittee that's looking at Magnuson.
4 Cause it's Magnuson terminology we'd be changing.

5 MR. RIZZARDI: It could go there. Ted?

6 MR. AMES: Yes, one option for data poor
7 fisheries is what's been done in Maine for many years
8 which is to concentrate on reproduction, protecting
9 reproduction and protecting nursery grounds. That
10 requires participation from fishermen to identify those
11 locations. But it's built the largest, most stable
12 fishery in New England, perhaps a little circumstances,
13 global warming has helped but among other factors it's one
14 possible alternative in place of assessments.

15 MR. RIZZARDI: Bob?

16 MR. RHEAULT: So, I just want to cut you off if
17 we're still discussing this. I've got another question.

18 MR. RIZZARDI: Okay. Any further discussion on
19 1.2 before?

20 MR. RHEAULT: So, in a number of different
21 sections we came up with the thought that permit holders
22 should be perhaps compelled to release their data. And
23 then I hear from Sam that there's a confidentiality issue.
24 And I would just like to know whether we're going to

1 address that or whether that's, is everybody all lawyered
2 up.

3 MR. RAUCH: Can I respond?

4 MR. RIZZARDI: Yes, please.

5 MR. RAUCH: A little context on that. There is
6 in the current Magnuson Act a fairly elaborate and pointed
7 confidentiality of information standard. In my view, when
8 the Magnuson Act was first passed back in the '70s we
9 required the fishermen, or the statute required the
10 fishermen to give us data. In order to get it passed I
11 think a compromise was reached with the fishermen who
12 believe that things like their fishing hole or their
13 fishing location or their methods of fishing provide them
14 a competitive advantage. And so, they wanted that to be
15 confidential.

16 So, there are and there always have been dual
17 requirements of the Magnuson Act to people to provide data
18 to the managers but also confidentiality. The Congress
19 reaffirmed that in 2007 and made it more complicated to
20 do. It is unclear today whether that original need for
21 confidentiality still exists in the broad base of
22 fisheries that we have. But certainly it is an impediment
23 to more publicly sharing that data.

24 That data can go to the fisheries managers but

1 I've heard repeatedly through this conference and others
2 place how other planning bodies would like to use that.
3 How people believe that's a public resource. I believe
4 that in order to make progress on that you really are
5 talking about a statutory change. But Congress has
6 adjusted that every time they've looked at the statute.

7 MR. RIZZARDI: Pam?

8 MS. YOCHAM: I would just comment that there's a
9 common theme through this was more cooperation between
10 industry and managers and data collection. And so, it
11 seems that there are mechanisms where everybody can agree
12 we can collect data together and share data. And so, that
13 could be encouraged recognizing the problems with those
14 data that are confidential but there are other avenues
15 where we can share data more widely than we are right now.

16 MR. RHEAULT: So, I'm sorry.

17 MR. RIZZARDI: Michelle.

18 MS. LONGO EDER: Some of the discussion may give
19 the impression that there is a real black and white line
20 between providing data and confidentiality and industry.
21 And just to give an example to illustrate some of the ways
22 that in some fisheries they provide data, for example, we
23 have VMS or vessel monitoring systems on our boats. So,
24 any time that we're involved in the ground fish fishery

1 that information as to exactly where we are is already
2 being communicated to fishing regulators.

3 We have 100 percent observer coverage when we
4 participate in the ground fish trawl fishery with
5 real-time data communication to fishery managers. There
6 is as part of the West Coast Trawl Program we fill out
7 economic data collection forms that you're required to
8 fill out that are extensive, lengthy, about costs, all the
9 socioeconomic questions that were raised that is going to
10 be extremely helpful.

11 So, anywhere from where you are as soon as you
12 enter into and as soon as you leave the dock to every dime
13 you've made relative to whether it's sales or lease,
14 relative to quota share there is existing data in some
15 fisheries that goes from A to Z. So, I think you know the
16 question is do we want to recommend to amend Magnuson
17 about confidentiality and again I think that leaving, you
18 know, looking at that recognizing that Fishery Management
19 Plans regionally do have the power to require that extent
20 of data in its implementation. So, it may not be
21 something, a road that we want to go down in terms of
22 making recommendations as a Committee.

23 So, I just want to highlight that as an example
24 of how extensive data gathering can be at least from the

1 commercial side in some fisheries.

2 MR. RIZZARDI: I just want to provide some
3 context from the Sessions and where the issue got raised
4 was often in the academic community. And it was the sense
5 that there would have been more analysis, there could have
6 been more documents generated in the academic community if
7 there had been an open source data system being made
8 available and that there's sort of this missed opportunity
9 for partnership because some of the data is kept
10 confidential.

11 So, that's the context it comes in. And on the
12 other side you've got the fishermen saying we want it to
13 be confidential because we don't want to give away our
14 secrets and the exact location where we were because then
15 somebody else is going to do and use the data and go fish
16 in our spot. So, you've got that tension between the two
17 dynamics.

18 MR. HOLLIDAY: I just wanted to come back again
19 to sort of the first principles of what we're trying to do
20 with these recommendations that we're not trying to
21 endorse a specific recommendation here that we agree that
22 a change of the Magnuson Act is essential. I think for
23 this particular confidentiality issue and I think you
24 bring out a great case. And I've told this during my

1 presentation.

2 We're looking for things if they're working well
3 in one region and there's not being replicated elsewhere,
4 that's something that we should focus on as a result of
5 the workshop, right? So, if it's working for the Pacific
6 Coast Ground Fish Fishery but it's not working in six of
7 the other regions and after 35 years we don't have that
8 data, what's different there? What has led to that
9 success that we can replicate elsewhere? That might be a
10 question for MAFAC to help evaluate.

11 It's not that we're going to beat people with a
12 stick and say, you have to do this as a result of the
13 statute. It's the issue of getting the appropriate data
14 and the appropriate cooperation. And if it's working well
15 in one Council area or two Council areas, how can we apply
16 that and use it elsewhere? And so, if that's an issue of
17 a policy discussion by MAFAC that you could be willing or
18 interested in contributing to, that's the context of the
19 challenge that we put out at the start in these trigger
20 questions.

21 And I'm sensitive. I'm not trying to put words
22 in anyone's mouth but it's not always about the change to
23 the Act. There are things that we're doing well someplace
24 that could be of value somewhere else.

1 MR. RIZZARDI: Bob?

2 MR. RHEAULT: And you know, I think it's
3 wonderful what you guys are doing up there and I just was
4 thinking that in terms of managing some of the other
5 stocks where we don't have that data density, it certainly
6 would be helpful to compel the fishermen to supply it for
7 the managers. And whether it gets shared beyond that is a
8 whole other question but in many cases we heard in many of
9 the presentations that fishermen who are fishing on the
10 public resource have an obligation to engage in
11 stewardship or at least share their data.

12 And I didn't want to be going somewhere where
13 laws wouldn't let us go. It sounds like we can go and
14 look at it anyway.

15 MR. RAUCH: Yeah, I think we have a very large
16 capacity to collect data from the fishermen if the
17 Councils choose to require or we have the authority to
18 require it. It is the public sharing of it that we are
19 limited in. But getting the data, it is very broad, our
20 current authority to ask for and compel the provision of
21 data.

22 MR. AMES: Having been on both sides of that
23 equation isn't there some way that you could make a
24 provision that commits the academic that wants to study

1 fish distribution or whatever to access -- we have a
2 situation, for example, in Eastern Gulf of Maine where
3 there hasn't been any data available to the academics for
4 about 20 years. And nobody knows what's going on there.
5 And you have an onshore trawl survey that happens that
6 detects juveniles but there's no information about what's
7 going on there because there's relatively few people who
8 ever fish there anymore.

9 If there were a provision to allow that, then
10 those people might be able to tease out answers as to why
11 there aren't more.

12 MR. RAUCH: So, there is a provision in the
13 Magnuson Act which allows us to aggregate data so that you
14 can look at data. And that's largely where the academics
15 get the data. They get it in an aggregate form but with
16 the sophistication of analysis that most people would like
17 to do today, that creates problems because they deal with
18 point sources in aggregate data. You have to unaggregate
19 it somehow.

20 There are, beyond that there's very limited
21 ability to get at individualized fishing data from
22 individual fishermen. It also sounds to me like the
23 problem you identified is a problem with closed areas and
24 how can you, once you've gotten the fishermen out of the

1 closed areas, they were a large source of information
2 about what was going on there and now you've lost that
3 platform and how can you get that kind of data in the
4 closed area which is a different issue but an issue we're
5 concerned about as well.

6 MR. RIZZARDI: Okay, so what I've heard from
7 this discussion is at least this is an issue worth
8 marking. There is certainly interest within MAFAC and I
9 think I'm just going to add it to the to do list for
10 strategic planning in terms of considering it for purposes
11 of what to recommend in terms of Magnuson implementation.
12 And at this point we have made it through all of the
13 topics from Managing our Nations Fisheries 3, so
14 congratulations.

15 MR. WALLACE: I never thought we would make it.

16 MR. RIZZARDI: It is 3:40 and I'm going to
17 suggest a 15-minute break and then we'll come back and
18 wrap up. Liz?

19 MR. HOLLIDAY: This is for the break.

20 MS. HAMILTON: I just want to say I'm going to
21 catch a flight from the International Airport leaving at
22 6:40 if anyone has a similar time and wants to ride. I'm
23 going to Seattle so.

24 MR. RIZZARDI: What time is your flight?

1 MS. HAMILTON: I was told I should leave at
2 4:30.

3 MR. RIZZARDI: Okay, it's 3:40. We'll be back
4 at 3:55.

5 (Recess)

6 **May Decisions, Action Items, Next Steps**

7 **October Meeting Agenda**

8 MR. RIZZARDI: Okay, so with the remaining time
9 we have what I'm hoping to do is get a clear understanding
10 of our path between now and October. And one of the
11 things I wanted to start with is October. We've already
12 been informed that we've got the problem of sequestration
13 and there is a good chance that this meeting, the October
14 meeting will be a virtual meeting. So, keep that in mind
15 as we do our planning.

16 Sam, for your sake and for our sake we would
17 greatly appreciate if you would at least ask for the
18 waiver for this body. I know you've sat here many times
19 and the deliberative nature of this and the in-person of
20 this and the after-hours nature of the sidebars that
21 happen and all the education that happens is an incredibly
22 valuable part of what makes this body effective. And we
23 will not be as productive if we are reduced to a virtual
24 body.

1 I mean, I think you know that instinctively but
2 we would really appreciate it if you would at least ask
3 for the possibility of a waiver.

4 MR. RAUCH: Yes, I agree with everything you
5 said. I will, I don't know if it was clear but there is a
6 general directive about advisory bodies and travel and
7 those kinds of things which makes it very hard. It was
8 very hard to get this meeting. My hope is that by October
9 situations will improve in terms of the federal government
10 budgeting. And so, but I fear that that won't happen.

11 So, yes, we will do what we can. I think your
12 first statement though that there's a high likelihood that
13 we won't be successful in that is true and that it will be
14 a virtual meeting.

15 MR. RIZZARDI: You can't get it if you don't ask
16 for it. So, that's all. So, thank you. Duly noted.

17 MR. RAUCH: Did you used to be a trial
18 negotiator or something like that?

19 MR. RIZZARDI: You know, we understand and
20 certainly appreciate the fact that we're here as I opened
21 the statements with yesterday. I recognize the budgetary
22 challenge.

23 And speaking of the budgetary challenge as we
24 walked through the last initiative, we did not spend any

1 time on trying to identify budgetary issues. Part of that
2 is Tony who is Strategic Planning who was going to be one
3 of the people helping to do that. He wasn't here. So, as
4 this next round of work gets passed down to the
5 Subcommittee level, I will ask everybody as you work
6 through all the issues that we've just spent the last four
7 hours identifying, be cognizant of the budgetary issues.

8 Pie in the sky is not going to get implemented.
9 It's going to have to be nuts and bolts. It's going to
10 have to be practical. There's going to have to be returns on
11 the investment. There's opportunities for cost savings
12 are most significant. So, as you think about all the
13 things we've talked about the last few days, just again
14 keep that in mind.

15 But what I want to do now if we could is just
16 kind of get a sense of the Committee as to how we could
17 best tackle these items. And we have right now the
18 certification process to try to finish. We've got the ESA
19 implementation process to try to finish. And now we're
20 effectively starting the dialogue on multiple items based
21 on Managing Fisheries 3.

22 So, let me start with the certification piece.
23 And how would you, George, envision that we get from here
24 to October and be able to deliver a recommendation in

1 October?

2 MR. NARDI: Well, it's clearly going to be
3 through e-mail and conference call. I think I would
4 suggest with the working group that I would take an
5 initial stab at maybe setting up, putting something on
6 paper. You know, some kind of an outline or flowchart.
7 We really didn't have time even though we did spend a lot
8 of time on this subject. But I think I sent out Jenny and
9 the staff had put together the presentation that sort of
10 summarizes where we are as of today.

11 We did have, I think there was a message and
12 Keith you can, we'll go back and forth to make sure I've
13 covered everything that we did talk about. But such as
14 working with NOAA staff, just begin to understand the
15 costs of the options we want to look at. But I think we
16 move along the path of those questions and tasks we have
17 to do and I think we will confirm that through conference
18 call and e-mail and take it step at a time and see if we
19 can get there come October with the -- to provide advice
20 and recommendations to NOAA on certification.

21 MR. RIZZARDI: So, at this point you're
22 envisioning we can get there largely through written
23 documents. We're not needing webinars and further
24 presentations?

1 MR. NARDI: Conference calls, yeah. I think
2 what we will need is but I think we'll have it or Bob
3 maybe can clarify because I'm not as familiar as the
4 Survey Monkey but will that all come in to you, Bob, the
5 results and then that will --

6 MR. RHEAULT: Yeah, I'll, you know, at some
7 point we'll close the collector and start to analyze the
8 data that's come in from all the questionnaires. I think
9 that we're very close to being able to say what it is and
10 then I think the next task would be to ask for some sort
11 of a cost analysis. And if we could get that started
12 before October we'd be very well on the way I think.

13 MR. NARDI: Yeah, I think it would -- our job
14 would be to have that done before October so we could have
15 that recommendation either as a staged program or there's
16 cost this much for A and this much B.

17 MR. RIZZARDI: Julie, I sense that you're not
18 quite as far along maybe as the certification or maybe
19 you'll feel otherwise but where are we heading?

20 MS. MORRIS: The working group is going to
21 continue with conference calls. Our next one is scheduled
22 for some time in July. We'll probably follow up with a
23 conference call in August. We're going to run some
24 scenarios on options but I think we'll be coming, will be

1 coalescing probably around this MOU option as a leading
2 option.

3 And there were questions raised both here and in
4 the CCC that we have to discuss that have to do with
5 working out the details of all of that. So, I think we
6 will have a final report and some recommendations by
7 October to share with MAFAC and the CCC before we submit
8 them to NMFS.

9 So, and we can operate by conference call.
10 That's what we've been doing so far.

11 MR. RIZZARDI: Okay, so for both of those
12 efforts if we're anticipating the possibility of a virtual
13 meeting, I just want you to think in terms of working
14 backwards that we'll have some sort of document that we're
15 hoping to have approved in late October which means that
16 the Committee members have to have an opportunity to look
17 at that document before we get on the phone for the call
18 to be effective. So, making sure that that's done by the
19 end of September would seem to be a reasonable timeline in
20 terms of being productive for the Committee. Pam?

21 MS. YOCHAM: My question was going to be along
22 those lines. Can we be really clear about what deadline
23 is? Does it need to be a -- is there a requirement for
24 this type of Committee that it needs to be a month in

1 advance or anything like that? But what I worry is that
2 we'll end up with everybody being flooded with documents a
3 week before the meeting.

4 MR. NARDI: I would agree with Pam but I think
5 unfortunately that usually is the case even at the
6 meetings. A week or two before we come all of a sudden
7 we're starting the -- we get stuff and that's the value
8 also of the face-to-face because we're working through it
9 while we're here. And usually on that third day then we
10 come to some recommendations. Obviously, we can't spend
11 two or three days on the phone or on the videoconference
12 or however that's set up.

13 So, I think yeah, in thinking about it we have
14 to work back from October and that deadline needs to be
15 two or three weeks earlier than that. I just realized
16 that myself.

17 MR. RIZZARDI: Yeah, so right now we are planned
18 for October 22, 3 and 4. If we're having a virtual
19 meeting I don't intend for us to spend three days in
20 teleconference proceedings. I'm thinking it will be a
21 much shorter much more efficient kind of meeting, maybe
22 two half day sessions. We break it up if that's what it
23 came to on the telephone. And then people can still be
24 doing their regular jobs too since you're not traveling.

1 But for that to be effective, again documents
2 needs to be in hand giving people at least two weeks to
3 read the documents would mean getting it out by Monday the
4 7th. But having in everybody's hands by Monday the 7th
5 means having it in NOAA's hands the week before. So,
6 getting it NOAA for final editing maybe on the 30th of
7 September would seem reasonable for any last editing and
8 posting of the documents so that the Committee would be
9 able to review it. Mark, does that seem like a reasonable
10 schedule to you?

11 MR. HOLLIDAY: How much time do you want the
12 Committee to have? I mean you said September 30th. How
13 much time are you giving us to do what you just said?

14 MR. RIZZARDI: That gives you a full week to
15 just take the documents you receive and get them on the
16 web. Not enough time.

17 MR. HOLLIDAY: Not if you expect us to anything
18 value added to it. To post it, we can post it in a day
19 but if you were asking us to do value added we need more
20 than a week because there's going to be more than one item
21 coming in to us.

22 MR. RIZZARDI: I understand.

23 MR. HOLLIDAY: So, if you expect the Committee
24 to have it two weeks in advance of the meeting you're

1 going to give us at least a couple of weeks for each of
2 these items to work on them. And so, cumulatively that's
3 why I was asking about workload.

4 MR. RIZZARDI: That's why we're going through
5 the action now.

6 MR. HOLLIDAY: Thank you.

7 MR. RIZZARDI: Phil?

8 MR. DYSKOW: I think the teleconferencing
9 concept works great at the Committee level, smaller group
10 of people, more focused topics. If you're going to do a
11 full Board meeting via distance we need to have some
12 discussion on best options. I don't know what kind of
13 videoconferencing capabilities NOAA has. I don't know
14 what many of us have but a partial videoconference or a
15 full videoconference would be more effective if you're
16 going to bring in the full Committee as opposed to just a
17 Subcommittee or a working group.

18 MR. RIZZARDI: I think that's a very good point.

19 MR. DOREMUS: Apologies. I was -- kind of
20 walked in on the middle of the conversation. I did pick
21 up the request to look at alternative ways that we could
22 do virtual meetings. We are indeed trying to do that. As
23 I think you probably know this issue extends to all the
24 Advisory Committees. Our Science Advisory Board is in the

1 same position. So, we're coordinating with the rest of
2 NOAA on how to deal with these things.

3 We'll try to make the most effective mechanisms
4 available that we have. The problem is there's all kinds
5 of competition for them for our limited VTC resources
6 given the extent and breadth of this requirement across
7 the organization. Not just for Advisory Boards but for
8 all manner of other things. So, I do want to just
9 recognize that this is not the optimal way to work. We do
10 hope that it is limited in time. We will try to make it
11 as unobtrusive and as minimally limiting to the
12 functioning of the Board as possible.

13 And I recognize as much as anybody the value of
14 getting together face-to-face for conducting work of the
15 complexity and nature that you all have to do. We have
16 that issue in spades in the organization right now and
17 we're very sensitive to this problem. So, I just at least
18 wanted to make those kind of notes and we'll work as
19 closely through Mark and everybody as we can to make this
20 what I hope to be a short period of time and perhaps one
21 meeting go as smoothly as possible.

22 MR. DYSKOW: Can I make one more comment? As a
23 starting point I would suggest we do a doodle poll and in
24 that poll indicate what capabilities NOAA has and then

1 perhaps the Board members can indicate what capabilities
2 they have individually to see if there's something
3 collectively that can be done within the resources that
4 are available.

5 MR. RIZZARDI: Yes, I think we're going to have
6 to work our way through that and that's maybe the way we
7 do it, Phil, to get to your larger point of the challenge
8 that we face and how to run these meetings. The two
9 deliverables that I see us clearly trying to finish in
10 October are the certification piece and the ESA piece.

11 And that's why I'm raising those where if we
12 have a document in hand then at least we can meet as a
13 Committee with everybody having had an opportunity to chew
14 on those documents, maybe dialogue about them a little bit
15 and hopefully approve the recommendations that come before
16 the Committee. And I'm envisioning that being maybe one
17 of the half days. And that could be done telephonically,
18 Skype, however we figure it out as long as the document's
19 in advance. And I think getting hard on the date if
20 they're done by September 20th, that gives Mark's team
21 more than two weeks to do some value added to it and to
22 get it posted in time for October 16 which would be two
23 weeks before we'd be trying to have our meeting.

24 So, September 20 would be the hard date for

1 those two items. As to the other items that now we're
2 potentially teeing up for discussion, Phil, you made the
3 point that the phone call will work better with smaller
4 groups and I do agree. And I'm envisioning that most of
5 the rest of that meeting would really be Subcommittee
6 level discussions being done telephonically on the various
7 items that we've now identified based on Managing
8 Fisheries 3.

9 So, what I'd like to propose is between now and
10 October I'm going to schedule a conference call with the
11 executive leadership which consists of all the
12 Subcommittee Chairs. Work through the notes from this
13 meeting, work through the Managing Fisheries 3 documents
14 and come up with the plan for how we're going to run those
15 discussions for the October call.

16 All right, so, I mean I don't think we're going
17 to be able between now and October to have the whole
18 Committee get together again and discuss all these many
19 issues in Managing Fisheries 3. What I do want to do is
20 be well organized for when we have to have that
21 telephonic, Skype or whatever kind of discussion it is
22 when we get to October at the Subcommittee level.
23 Columbus?

24 MR. BROWN: I think one thing what would be

1 helpful to us is some type of a matrix or crosswalk
2 between the different categories and the issues so we'll
3 where there's commonality.

4 MR. RIZZARDI: I passed on all my notes to Mark.
5 I plan on working with the staff to go through all the
6 items. What I would like to do is make it so that each of
7 the five Subcommittees meets at a separate time that way
8 all the members would have the opportunity to participate
9 in any issue they want.

10 So, it wouldn't be like the way it works when
11 we're all gathered together where you have sometimes
12 conflicts between meetings. We would just sequence them
13 so then you'd be able to pick and choose. And if your Rec
14 Fish meeting is going and then you want to be on the
15 Strategic Planning, then you'll have the opportunity to do
16 both.

17 Any further thoughts on how to get from here to
18 there? Julie?

19 MS. BONNEY: I hate to say it but I don't know
20 that everybody is on a Committee and I'm not clear who all
21 the Committee Chairs are and whatnot. So, I don't know if
22 that's one the web or someplace that people can either
23 reshuffle the Committee membership or see if we need
24 another Committee based on the tasks we came up with.

1 MR. RIZZARDI: So, MAFAC's always been kind of
2 loose and people can bounce between Committees. One thing
3 that I've asked everybody to do is try to pick one and
4 stay consistent with it and always be involved with that
5 one so there's a degree of continuity. But we have the
6 Executive Subcommittee that is the Chair, the Vice Chair
7 and the leadership. And then Strategic Planning which
8 Tony Chatwin is the Chair, the Commerce Subcommittee which
9 is George as the Chair, Julie Protected Resources Chair,
10 Dave Wallace is Ecosystem and Recreational Fisheries is
11 Ken.

12 And we also talked down the road about having
13 the Commerce Subcommittee being co-chaired with a
14 commercial fishery rep since there wasn't even a Commerce
15 Committee meeting scheduled for this one. It just hasn't
16 happened yet. All right, so I'm again encouraging
17 everybody to have at least one of those that they plan on
18 being a continuing and active participant in. And then
19 the other ones you can bounce around as you choose.

20 All right, I'm exhausted after a week. Is there
21 any new business? Mark, do you have any closing comments?

22 MR. HOLLIDAY: No.

23 MR. RIZZARDI: Sam?

24 MR. RAUCH: No.

1 MR. RIZZARDI: Thank you everybody for the
2 endurance and the marathon race that we've run this week.
3 I think we got a lot accomplished and I wish you all safe
4 travels home.

5 Columbus?

6 MR. BROWN: I understand we should thank Heidi
7 for all the good stuff she does for us.

8 MR. RIZZARDI: Yes, thank you to the NOAA team
9 for being here and for the organizing and bouncing between
10 two rooms and setting up. That was an effort in and of
11 itself. So, the materials got out and we got it done so
12 thank you everybody. Meeting adjourned.

13 (Whereupon, at 4:17 p.m., the
14 PROCEEDINGS were adjourned.)

15 * * * * *

1 CERTIFICATE OF NOTARY PUBLIC

2 DISTRICT OF COLUMBIA

3 I, Mark Mahoney, notary public in and for the
4 District of Columbia, do hereby certify that the
5 forgoing PROCEEDING was duly recorded and
6 thereafter reduced to print under my direction;
7 that the witnesses were sworn to tell the truth
8 under penalty of perjury; that said transcript is a
9 true record of the testimony given by witnesses;
10 that I am neither counsel for, related to, nor
11 employed by any of the parties to the action in
12 which this proceeding was called; and, furthermore,
13 that I am not a relative or employee of any
14 attorney or counsel employed by the parties hereto,
15 nor financially or otherwise interested in the
16 outcome of this action.

17
18
19 (Signature and Seal on File)

20 -----

21 **Notary Public, in and for the District of Columbia**

22 **My Commission Expires: March 14, 2014**